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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

नोटिस

NOTICE

नीच लिखे भारत के असाधारण गजट १८ फरवरी १९६५ तक प्रकाशित किए गए थे -

The undermentioned Gazettes of India Extraordinary were published upto the 18th February, 1965 :—

Issue No.	No. and Date	Issued by	Subject
28	S.O. 588, dated 11th February, 1965	Ministry of Commerce.	Further amendment to the Exports (Control) Order, 1962.
29	S.O. 589, Dated 12th February, 1965	Do.	Cancelling the Order issued by S.O. No. 1527, dated 4th July, 1959.
30	S.O. 590, dated 15th February, 1965	Election Commission India.	List of Contesting candidates for the bye-election to the House of the People from 76-Hathras (SC) Parliamentary Constituency.
31	S.O. 591, dated 15th February, 1965	Central Board of Direct Taxes.	The Income-tax (Second Amendment) Rules, 1965.
32	S.O. 653, dated 16th February, 1965	Election Commission India.	Amendment to Notification No. 434/13/61, dated 23rd December, 1961.
33	S.O. 694, dated 17th February, 1965	Central Board of Direct Taxes.	Corrigendum to S.O. No. 169, dated 4th January, 1965.

Issue No.	No. and Date	Issued by	Subject
34	S.O. 655, dated 18th February, 1965.	Ministry of Information and Broad Casting.	Approval of films specified therein.

ऊपर लिखे असाधारण राजपत्रों की प्रतियाँ प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के नाम मांगपत्र भेजने पर भेज दी जाएंगी। मांगपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने की तारीख से 10 दिन के भीतर पहुँच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षामंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकारियों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएँ।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 17th February 1965

S.O. 656.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 11th January, 1965 by the Election Tribunal, Patna, in Election Petition No. 294 of 1962.

IN THE COURT OF THE MEMBER, ELECTION TRIBUNAL, PATNA

Present: Shri P. K. Sarkar, Retired Judge of the Calcutta High Court.

The 11th day of January, 1965

ELECTION PETITION No. 294 OF 1962

Ramasray Prasad Chaudhary—*Petitioner.*

Versus

- | | | |
|----------------------------|---|---------------------|
| (1) Satya Narain Sinha | } | <i>Respondents.</i> |
| (2) Rajendra Mahto | | |
| (3) Banari Pd. Sah | | |
| (4) Hemant Kumar Chaudhary | | |
| (5) Rajeshwar Patel | | |

For the Petitioner.—Shri Ramakant Verma and Shri Chandrakant Jha, Advocates.

For the Respondent No. 1.—Shri B. C. Ghosh and Shri Kanhaiya Prasad Varma, Advocates.

For the Respondent No. 4.—Shri Sidheshwari Prasad Singh, Advocate.

For the Respondent No. 5.—Shri Shyam Nandan Pd. Sharma, Advocate.

JUDGMENT

This is an election petition calling into question the election to the House of the People from 16 Samastipur Parliamentary Constituency in the State of Bihar

at the General Elections of 1962. Six candidates who are all parties to this petition had filed nomination papers for this election, but later on two of the candidates, who are respondent Nos. 4 and 5, withdrew their candidature and the election was contested by the remaining four candidates among whom the petitioner represented the Swatantra Party, the respondent No. 1 who was a Minister of the Central Government, represented the Congress Party, the respondent No. 2 represented the Praja Socialist Party and the respondent No. 3 represented the Socialist Party. The polling was held on four different dates, namely, the 18th, 21st, 23rd and 25th February, 1962 and on the 3rd March, 1962 the respondent No. 1 was declared elected. The votes polled were as follows:—

1. Respondent No. 1	..	..	..	82,522 votes.
2. Respondent No. 2	..	..	..	60,972 votes.
3. Petitioner	..	..	..	45,411 votes.
4. Respondent No. 3	..	..	..	9,991 votes.

2. The election petition which bears date the 11th April, 1962, was sent by registered post to the Election Commission and it was received there on the 14th April, 1962. The petitioner prayed for two reliefs in this petition;—

(1) a declaration that the election of the respondent No. 1 was void and liable to be set aside and (2) a further declaration that he or any respondent other than the respondent No. 1 had been duly elected.

3. The grounds on which the election was challenged were commission of certain corrupt practices by the respondent No. 1 and his workers and agents and infringement of the law relating to maintenance of secrecy of voting and certain other matters. The corrupt practices alleged related to delivery of speeches and making of false propaganda by the respondents Nos. 1 and 2 against the Swatantra Party, and to making of appeals on the ground of caste, offering of inducements to Muslims and other voters, bribing of Harijan voters, hiring of vehicles for carrying voters to the polling stations and utilisation of the services of certain Railway employees in the matter of canvassing for votes by the respondent No. 1 and his agents and workers. The particulars of the corrupt practices alleged were given in Annexure 'A' and 'D' to the petition. In Annexure 'B' to the petition certain leaflets in Hindi were mentioned and it was alleged that the workers and agents of the respondent No. 1 had distributed to his knowledge and with his connivance these leaflets which contained heinous and false aspersions on the personal character of the petitioner. It was next alleged that the respondent No. 1 had got printed a booklet of songs mentioned in Annexure 'C' attacking the Swatantra Party and its leaders and that his agents and workers had distributed it in the constituency and had the songs sung on loud speakers. In Annexure 'E' to the petition numbers were given of certain Government vehicles said to have been requisitioned for the purposes of his election by the respondent No. 1. Instances were given of the infringement of the law regarding maintenance of secrecy of voting, of canvassing in or near polling stations, of threatening of voters and agents and of other kinds of misconduct at the polling stations. Finally it was stated that the account of election expenses submitted by the respondent No. 1 was incorrect and that he had suppressed many items of expenses incurred by him and had spent more than the limit fixed by law.

4. All the respondents except the respondent No. 3 appeared and filed written statements. The respondent No. 1 filed his written statement on 17th August, 1962 and the others did so on 28th August, 1962. The written statement of the respondent No. 4 who is the son and was the election agent of the petitioner enclosed the book of songs and one of the leaflets mentioned in the election petition and gave further particulars about them and about the election expenses incurred by the respondent No. 1.

5. The respondent No. 1 in his written statement took certain preliminary objections to the maintainability of the election petition. He pleaded that it had not been filed in accordance with the provisions of sections 81, 82 and 83 of the Representation of the People Act, 1951 and was not accompanied by copies of the leaflets and the booklet mentioned in the Annexures to the petition. He specifically objected to the verifications and the affidavit filed in support of the corrupt practices. With regard to the allegations of corrupt practices he specifically denied all of them and contended that they were all false and baseless and that the particulars of such corrupt practices were vague and insufficient. He also denied any infringement of the law regarding maintenance of secrecy of voting and other matters pleaded in the election petition. He stated that he

had always directed his workers and agent not to do anything against the law and that they were never guilty of contravention of any law. With regard to the account of election expenses submitted by him he denied that it was incorrect or that any expense was suppressed or that the expenses exceeded the limit sanctioned by law.

6. The respondent No. 2 denied the allegations made in election petition against him but otherwise supported the election petition and pleaded that the respondent No. 1 had committed the corrupt practices alleged against him and that in consequence his election was liable to be set aside. He prayed that he should be declared as duly elected. He did not, however, appear at the trial.

7. The respondent No. 5 contended in his written statement that he and the respondent No. 4 were not necessary parties to the election petition which was liable to be dismissed on this ground and for non-compliance with other provisions of the Representation of the People Act, 1951.

8. The following issues were framed on 10th September, 1962:—

(1) Is the election petition liable to be dismissed u/s 90(3) of the R.P. Act, 1951 because of non-compliance with the provisions of sections 81 and 82 of the said Act?

(2) Does the petition comply with the provisions of section 83 of the R.P. Act, 1951? If not, has the Tribunal jurisdiction to enquire into the allegations of corrupt practices in the petition and the annexures thereto?

(3) Did the respondent No. 1, his workers and agents commit the corrupt practices under sub-sections (1), (2), (3), (3A), (4), (5), (6) and (7) of Section 123 of the R.P. Act, 1951, as alleged in the election petition or the annexures thereto. If so, was the result of the election materially affected thereby?

(4) Did respondent No. 1 keep correct account of all expenditure incurred and authorised by him or by his election agent in connection with the election? Did the total of the said expenditure exceed the prescribed amount?

(5) Was there any infringement of the provisions of the Constitution of India in relation to the maintenance of secrecy of ballot or non-compliance with the provisions of sections 125, 126, 127, 127(A), 128, 129, 130, 131 and 132 of the R.P. Act, 1951 in this election?

(6) Is the petitioner entitled to be declared duly elected from this Constituency? To what relief, if any, is the petitioner entitled?

9. Thereafter on 16th October, 1962, the petitioner filed a petition praying for amendment of the verifications appended to the election petition and another petition supplying further particulars of the corrupt practices alleged in the said petition in the form of Annexures with an affidavit in support of them. Counter petitions were then filed by the respondent No. 1. All these petitions and the preliminary issues Nos. (1) and (2) were heard on 12th November, 1962 and 16th November, 1962 and on 29th November, 1962, the following order was passed:—

10. The two preliminary issues which have been heard run as follows:—

1. Is the election petition liable to be dismissed u/s 90(3) of the R.P. Act, 1951, because of non-compliance with the provisions of sections 81 and 82 of the said Act?

2. Does the petition comply with the provisions of section 83 of the R.P. Act, 1951? If not, has the Tribunal jurisdiction to enquire into the allegations of corrupt practices in the petition and the annexures thereto?

Issue No. 1.—So far as non-compliance with the provisions of section 81 of the Representation of the People Act, 1951 to be hereafter referred to as the Act, is concerned, there was an objection in paragraph 3 of the written statement of respondent No. 1 that the election petition was not filed in time or before the proper authority. This objection was not, however, pressed at the hearing. The election petition bears an endorsement that it had been received by the Secretary, Election Commission, India by registered post on the 14th of April, 1962. This is also borne out by the Election Commission's order-sheet. The result of the election was announced, as I am informed, on the 3rd March, 1962. So the election petition was filed in time and before the proper authority. Certain other objections regarding non-compliance with the provisions of section 81(3) of the Act were also not pressed.

11. So far as non-compliance with the provisions of section 82 of the Act is concerned, a curious objection was taken in paragraph 5 of the written statement of respondent No. 1 that two candidates named Hemant Kumar Choudhary and Rajeshwar Patel who had filed nomination papers which were duly accepted by the Returning Officer were necessary parties to the petition despite the fact that they had actually been joined as respondents, Hemant Kumar Choudhary being respondent No. 4 and Rajeshwar Patel respondent No. 5. Both these respondents have appeared and filed written statements and respondent No. 4 has supported the case of the petitioner. They however, withdrew their candidatures and an objection has been taken by respondent No. 5 that since they were not contesting candidates they were not necessary parties to the petition and that by addition of them the provisions of section 82 of the Act have been contravened. The petitioner has since filed a petition (on 12th November, 1962) conceding that respondent No. 5 was not a necessary or proper party and praying that his name might be expunged from the record. It is true that these respondents not being contesting candidates were not necessary parties under section 82(a) of the Act, but I cannot agree with the view that joinder of these additional parties should be treated on the same footing as non-joinder of a necessary party and considered fatal to the petition under section 90(3) of the Act. The failure to join a necessary party would be fatal because without such a party the relief claimed by the petitioner could not be granted and the Tribunal has no power to allow rectification of the defect by amendment of the petition in view of the penal provisions of section 90(3) of the Act. Joinder of an unnecessary party does not, however, affect the relief claimed and cannot therefore be equally fatal to the petition. I hold accordingly that the joinder of respondents No. 4 and 5 should not be treated as contravention of the mandatory provisions of section 82(a) attracting the penalty of dismissal imposed by section 90(3) of the Act. Since the respondent No. 5 does not want to remain on the record and the petitioner has prayed for striking out his name, his name should be struck out and he will get his costs.

11A. Issue No. 2.—The first objection on this issue is that the election petition has not been properly verified. The verification both of the petition and of the annexures is in this form:

"I.....do hereby declare that the above statements of this petition are true to the best of my knowledge and belief or information." Section 83(1)(c) of the Act provides that an election petition and any schedule or annexure thereto should be verified in the manner laid down in the Code of Civil procedure for the verification of pleadings and O.R.15(2) C.P.C. lays down that a person verifying shall specify by reference to the numbered paragraphs of the pleadings what he verifies on his own knowledge and what he verifies upon information received and believed to be true. It will appear from the above verification that the petition and the annexures have not been verified in that manner. The petitioner has since (on 16th October, 1962) filed a petition for amendment of the verifications and prayed that the verifications contained in the said petition might be substituted in place of the original verifications. Objection has been taken to this petition but it is now well-settled that a Tribunal has jurisdiction to allow the verification to be amended for rectification of any defect therein. Reference may be made in this connection to the decision of the Supreme Court in the case of Bhikaji Vs. Brij Lal, A.I.R. 1955-S.C. 610. It has been argued that the new verifications cannot be allowed to be substituted in place of the old verifications, but the old verifications were defective because they did not specify the paragraphs of the petition and the annexures which were true to the knowledge of the petitioner and which were true to his information and belief and so if the verifications are to be amended, they will necessarily have to be substituted by new verifications specifying the paragraphs which are true to the petitioner's knowledge and those which are true to his information and belief. This has been done in the verifications contained in the petition for amendment. The amendment will be by substitution of these verifications for the defective verifications in the petition and in the annexures. The amendment is, therefore, allowed and the verifications mentioned in the petition for amendment, dated 16th October, 1962, be substituted in place of the original verifications in the petition and the annexures.

12. The next objection is that the election petition is not accompanied by an affidavit in terms of the proviso to section 83(1) of the Act. There are allegations of corrupt practices in the petition and the proviso requires that in such a case the petition shall be accompanied by an affidavit in the prescribed form in support of allegations of corrupt practices and the particulars thereof. This proviso is new and was introduced by Act 40 of 1961. No form of the affidavit was, however, prescribed in 1961 but a notification was published in the Gazette of India Extra-ordinary dated February 27, 1962 introducing a new rule, No. 94A,

in the Conduct of Election Rules, 1961, with the Form (No. 25) of this affidavit. This Form requires that the corrupt practices should be named in the affidavit and that the paragraphs in the petition and the schedules true to knowledge and those true to information should be separately sworn to. The affidavit filed with the petition in this case is not in this form. The petitioner has only affirmed at the end of the petition and the annexures that the contents of the petition are true to his knowledge, information and belief. He has not specified which statements are true to his knowledge and which are true to his information and belief. The petitioner has since (on 16th October, 1962) filed an affidavit in the prescribed form and prayed that it might be accepted and treated as part of the election petition, but this cannot be done and it would not cure the defect in the original petition as filed. There is no provision in the Representation of the People Act for curing the defect by a subsequent affidavit and the Tribunal has no power to accept such an affidavit.

13. The question now is what should be the effect of non-compliance with the above proviso to section 83(1). I have already held in two of the cases before me that since non-compliance with the provisions of section 83 has not been made penal u/s 90(3) of the Act, the proviso cannot be said to be mandatory. That is the effect of the decision of the Supreme Court in the case of Jagan Nath Vs. Jaswant Singh, reported in A.I.R. 1954 S.C. 210. There the Supreme Court observed as follows:—

(1) "The general rule is well-settled that the statutory requirements of election law must be strictly observed and that an election contest is not an action at law or a suit in equity but is a purely statutory proceeding unknown to the common law and that the court possesses no common law power. It is also well-settled that it is a sound principle of natural justice that the success of a candidate who has won at an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law. None of these propositions however has any application, if the special law itself confers authority on a Tribunal to proceed with a petition in accordance with certain procedure and when it does not state the consequences of non-compliance with certain procedural requirements laid down by it. (2) "It is always to be borne in mind that though the election of a successful candidate is not to be lightly interfered with, one of the essentials of that law is also to safeguard the purity of the election process and also to see that people do not get elected by flagrant breaches of that law or by corrupt practices. In cases where the election law does not prescribe the consequences or does not lay down penalty for non-compliance with certain procedural requirements of that law, the jurisdiction of the Tribunal entrusted with the trial of the case is not affected."

14. The original Act of 1951 included section 83 in the penal provisions of the Act contained in sections 85 and 90, but by the amendment of 1956 section 83 was excluded from the said sections. In view of this amendment it must be taken that the Legislature did not intend to impose any penalty for non-compliance with the provisions of section 83. That being the position, on the test laid down by the Supreme Court in the above case the proviso in question cannot be construed as mandatory and the fact that the affidavit filed does not correspond to the form prescribed by the new rule 94A would not oust the jurisdiction of the Tribunal to try the case of corrupt practice. To hold otherwise would be to run counter to the principle laid down by the Supreme Court in the second paragraph of the observations quoted above and would defeat one of the essential objects of the election law emphasised in that paragraph, viz., to safeguard the purity of the election process and to ensure that people do not get elected by flagrant breaches of that law or by corrupt practices.

15. I hold accordingly that the proviso in question is not mandatory and that the petitioner is not debarred from agitating the question of corrupt practices in consequence of non-filing of an affidavit in the prescribed form in support of the allegations thereof.

16. The next objection is that the election petition is vague and does not contain full or sufficient facts or particulars about the corrupt practices alleged therein. In order to meet this objection the petitioner has filed (on 16th October, 1962) a petition with six annexures containing further particulars and prayed that they might be substituted for the original annexures. Objection has been taken to this petition on the ground that most of these particulars are new and that the Tribunal has no power to accept them by way of amendment of the election petition u/s 90(5) of the Act.

17. In paragraph 6 of the election petition the first corrupt practice alleged is that the respondents No. 1 and 2 their workers and party members delivered speeches falsely indicating the Swatantra Party to which the petitioner belonged, exhorting the Muslim voters to vote for the Congress candidate i.e., respondent No. 1, for their safety and making appeals on the ground of caste. The names of the person who delivered such speeches with the names of places and dates were enumerated in annexure A. In respect of certain instances, however, it was stated that speeches were delivered by the persons named throughout the constituency within certain dates. In annexure A of the amendment petition the names of the villages where speeches were delivered by the persons mentioned in annexure A of the election with dates have been separately enumerated. It also contains petition all the instances enumerated in the original annexure A together with certain new instances of delivery of speeches not mentioned therein. To these particularly objection has been taken on behalf of respondent No. 1.

18. Section 90(5) lays down that "the Tribunal may... allow the particulars of any corrupt practice alleged in the petition to be amended or amplified, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition". Reference was made on behalf of the petitioner to the decision of the Supreme Court in the case of Harischandra Bajpai Vs. Triloki Singh, reported in A.I.R. 1957 S.C. 444, in which it was held that the Tribunal has authority to allow an amendment even when that involves inclusion of new instances, provided they relate to a charge contained in the election petition and that it would be competent to the Tribunal to allow an amendment giving for the first time instances of a corrupt practice, provided such corrupt practice has been made a ground of attack in the petition. This decision was given under the old Act when the power of amendment was contained in section 83(3) of the Act and was worded differently from the present section 90(5). The old section 83(3) allowed the particulars of any corrupt practice included in the list required to be filed by the petitioner under section 83(2) to be amended and the Tribunal was also empowered to order further and better particulars in regard to any matter referred to therein to be furnished. The present section 90(5) does not contain the words 'further the better particulars', but it gives the Tribunal power to allow the particulars of any corrupt practice alleged in the petition to be not only amended but also amplified—the only limitation being that no amendment should be allowed which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition. There seems to be nothing in this section to debar the petitioner from furnishing new instances of a corrupt practice alleged in the petition by way of amplification. This section was considered in a decision of the Mysore High Court in the case of Sangappa Vs. Shivamurti, reported in A.I.R. 1958 Mysore 120, and it was held there that "amplification" means the act of increasing or enlarging and that the word "particulars" in the section means "instances", as was held by the Supreme Court in the case of Harish Chandra Vs. Triloki Singh in respect of the same word used in section 83(3), then when it is said that instances of corrupt practice may be amplified it means that such instances may be increased or, in other words, more instances can be given of such corrupt practice. It was further held that the words "not previously alleged in the petition" occurring in section 90(5) refer to "corrupt practice" and not to "particulars" and that the effect of section 90(5) is that if a corrupt practice has been alleged then further instances of such corrupt practice can be given, but that if a corrupt practice has not been alleged in the petition, then by trying to give particulars of a corrupt practice which has been alleged, particulars of a corrupt practice which has not been alleged cannot be introduced. I cannot, therefore, accept the contention that new instances of the first corrupt practice alleged in the petition of which some instances were given in the original annexure A cannot be furnished by way of amendment and amplification under section 90(5). The objection to the new instances in annexure A of the petition for amendment is therefore over-ruled. The other instances are merely repetitions of the instances mentioned in the original annexure A with more specific details by way of amplification to which no objection can be taken.

19. Objection has next been taken to certain words occurring in the amendment petition not only in respect of annexure A but in respect of other annexures also. These words are "at the instance of respondent No. 1" and "on behalf of respondent No. 1 at his instance". These words did not occur in the election petition or in the annexures thereto. There the words used were "on behalf of" or "in the interest of" respondent No. 1 or "with his knowledge and connivance". It has been contended that by introduction of these words the petitioner has sought to make out a new case, since under section 100(1)(b) of the Act if any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent, then the election shall be declared void, but under section 100(1)(d)(ii) if any

corrupt practice has been committed in the interests of the returned candidate by an agent other than his election agent, then it will have to be shown for getting the election declared void that the result of the election, in so far as it concerns the returned candidate, has been materially affected by that corrupt practice. This objection should succeed and such words in the amendment petition as were not used in respect of any corrupt practice in the election petition or in the annexures thereto will have to be ignored at the trial of the case in considering the question whether the case alleged comes under section 100(1)(b) or under section 100(1)(d) (ii) of the Act.

20. In paragraph 7 of the election petition it was alleged that the Congress party workers, agents of respondent No. 1, distributed to his knowledge and connivance leaflets casting heinous and false aspersions on the character of the petitioner and three instances of such printed leaflets were given in annexure B to the petition without mentioning the names of persons who distributed them and when and where. In annexure B to the petition for amendment the names of the distributors of these three leaflets or pamphlets with dates and places of distribution have been furnished and the pamphlets themselves which were not filled with the election petition have been filed. This is merely an amplification of the particulars of the corrupt practice alleged in the petition by supplying names and dates and I do not find any legitimate ground for objection to such additional particulars. My attention was drawn to a decision of the Madras High Court in the case of T. L. Sasivarna Thevar Vs. V. Arunagiri, reported in 17 E.L.R. 313, in which allegations of obstruction of voters and assault on workers by the followers and party men of the returned candidate were made in the election petition without mentioning the names of the offenders and subsequent amendment supplying the names of the offenders was disallowed on the ground that it would create a new charge. With respect I am unable to follow this decision in view of the authorities already cited. Supplying of names cannot be said to amount to formulation of a new charge. With regard to the objection taken to the filing of the pamphlets with the amendment petition it should be noted that these are printed pamphlets and that the names of the printers and publishers were given in annexure B to the election petition. Reference was made in this connection to a decision of the Assam High Court, reported in A.I.R. 1958 Assam 97 (Bishwanath Vs. Haralal) in which a copy of a newspaper alleged in the election petition to have been distributed by the returned candidate was allowed to be filed subsequently. I therefore allow the pamphlets to be filed with the petition for amendment as part thereof. The statements, however, as to whether they were distributed at the instance of respondent No. 1, if not in the election petition, will have to be disregarded.

21. In paragraph 8 of the election petition it was stated that respondent No. 1 got printed one booklet of songs called "Jawane Ki Hawa" containing bitter songs against Swatantra Party and its leaders in village dialect and that his agents and workers distributed it in the whole constituency and the songs were sung on loud-speakers. In annexure C were mentioned the names of the writer, the publisher and the printer of the booklet. The names of the distributors or singers were not, however, mentioned. In annexure C of the amendment petition, the names of the distributors with dates and names of villages have been mentioned. This is also an amplification of the particulars mentioned in annexure C to the election petition and hence no objection can be taken to this amendment of that annexure.

22. In paragraph 9 of the election petition it was mentioned that certain corrupt practices enumerated in annexure D were employed during election by the Congress and the workers, agents of respondent No. 1 to his full knowledge and the enumeration in annexure D included hiring of bullock carts for carrying voters, bribery of Harijan voters and certain inducements offered by respondent No. 1 and his agents. In respect of the first item no names or details were mentioned and in respect of the second item only the names of certain Harijan voters alleged to have been bribed with dates were mentioned in the said annexure. In respect of the inducements offered by respondent No. 1 and his agents certain instances like donations, promises and promotion of schools were enumerated without any names. In annexure D of the amendment petition the names of the owners of the bullock carts hired and of the agents of respondent No. 1 who hired them together with the names of the villages and the dates have been supplied. The amendment proposed in respect of this item is thus merely an amplification of the particulars mentioned in the original annexure D and is therefore in order. Next, some instances of hiring of rickshaws have been enumerated in annexure D of the amendment petition with the names of the polling agents who hired them and the dates and the names of the polling booths to which the voters were carried thereby. Objection has been taken that the hiring of rickshaws not having been mentioned in annexure D of the election petition cannot now be introduced. It is true that in the said annexure this item was not mentioned, but in paragraphs 14 and

15 of the election petition itself several instances of hiring of rickshaws by the polling agents of respondent No. 1 for carrying voters to the polling booths were mentioned together with the dates and the names of the polling agents and the polling booths. The very same instances of hiring of rickshaws with all the details mentioned in paragraphs 14 and 15 have now been enumerated in annexure D to the petition for amendment and it has been explained that this has been done because the instances should have been mentioned in the annexure and not in the body of the petition. The old section 83(2) of the Act required the particulars of a corrupt practice to be set out in a separate list but under the new section 83(1) (b) no such separate list is necessary and the particulars may be set out in the petition itself. However, when annexures have been filed with the petition it is better that all such particulars should be embodied therein. This is what the amendment proposes to do. There is, therefore, no point in the objection raised. It has, however, been stated in the petition for amendment that all these conveyances were hired at the instance of respondent No. 1 and his election agent. This statement is not in the election petition and should, therefore, be disregarded.

23. With regard to the item of bribery of Harijan voters whose names were mentioned in annexure D to the election petition, annexure D to the petition for amendment mentions the names of the person or persons who bribed each of them together with the amounts of money paid as bribe and the dates of payment. Only one new instance of bribery has been mentioned in item (j) of this annexure. As I have already held, the petitioner is entitled to add new instances of the corrupt practice alleged by way of amplification. The additional particulars given in respect of the original instances are also justified by way of amplification. The further statement that all these instances of bribery "were at the instance of respondent No. 1 himself or his election and other agents with his connivance" should, however, be disregarded as it is at variance with the statement in the election petition.

24. Curiously enough item (k) of instances of bribery in annexure D to the petition for amendment mentions a bribe of Rs. 5,000 paid by respondent No. 1 to respondent No. 5 Rajeshwar Patel for withdrawal of his candidature on 22nd January, 1962. No such allegation was made in the election petition and the petitioner himself has, as already stated, prayed that the name of respondent No. 5 should be expunged. This item of annexure D to the petition for amendment, should, therefore, be struck out.

25. Under the head of inducements offered by respondent No. 1 certain instances of opening of schools, payment or promise of grants-in-aid to schools, raising of or promise to raise schools to higher standards and donation to a library have been mentioned in annexure D to the petition for amendment together with the names of the persons who were concerned therein and dates and the amount of donation to the library. The items were there in the original annexure D but the names and other particulars were wanting. These details have now been supplied in annexure D to the petition for amendment by way of amplification and they are therefore in order. A promise by respondent No. 1 to construct a bridge over a river is also mentioned in this annexure under the head of inducement. This was not mentioned in annexure D to the election petition but was mentioned in the petition itself in paragraph 10. This has now been included in the annexure where it should properly belong. There is an additional head of undue influence in the proposed amendment under which have been enumerated instances of threatening of voters and polling agents of the petitioner by the election agents and workers of respondent No. 1. These instances were not enumerated in annexure D to the election petition but they were mentioned in paragraph 17 of the petition itself. There can therefore be no objection to this item in annexure D to the amendment petition.

26. In paragraph 11 of the election petition it was stated that during election Government vehicles and Government requisitioned vehicles on election duty were used by respondent No. 1 for carrying people to his election meeting and in annexure E to the petition the particulars of these vehicles with car numbers and date were mentioned. In annexure E to the petition for amendment the very same vehicle numbers and statement have been repeated without addition of any new particulars. This annexure does not therefore require any amendment.

27. In paragraph 18 of the election petition it was stated that the account submitted by respondent No. 1 (under section 78 of the Act) was wrong and incorrect and that he had left out many expenses incurred by him and had spent more than the limit fixed by law. No annexure was, however, filed with regard to this charge and no particulars of suppressed expenditure were furnished in the petition. A new annexure F has now been filed with the petition for amendment and in it 26 items of expenses totalling Rs. 1,70,649.15 Np. have been enumerated as having been incurred by respondent No. 1 for the purpose of the election and suppressed

by him from the account lodged with the returning officer. Serious objection has been taken to this annexure and it has been contended that since no particulars were furnished in the election petition in respect of this charge, as required by section 83(1)(b) of the Act, the petitioner cannot now be allowed to introduce these items of expenses for the first time by way of amendment or amplification. The argument is that it is only "the particulars of any corrupt practice alleged in the petition" which can be amended or amplified under section 90(5) of the Act and that if there are no particulars or instances of the alleged corrupt practice in the petition, no question of amendment or amplification of non-existent particulars can arise. It is true that this charge stands on a somewhat different footing from the other charges of corrupt practice in the election petition because in respect of them some particulars or instances were furnished either in the body of the petition or in the annexures thereto which could be amended and amplified by the addition of more details or new instances, but I think that the decision of the Supreme Court in the case of *Harish Chandra Vs. Triloki Singh*, cited above is comprehensive enough to include such a case also.

28. In that case there was a charge in the election petition that the returned candidates could in furtherance of their election enlist the support of certain Government servants who were not, however, named and the nature of the support was not explained. No list setting forth the full particulars of this charge was filed with the petition. Subsequently the petitioner prayed for permission to amend the paragraph by adding the words "Village Headmen" with their names and the fact that they worked and issued appeal and eventually became the polling agents of the returned candidates. The Supreme Court held that even where no list had been filed, as required by section 83(2) of the then Act, it would be competent to the Tribunal to allow an amendment giving for the first time instances of corrupt practice, provided such corrupt practice has been made a ground of attack in the petition. As already stated, the law has not been changed in any substantial manner by the enactment of section 90(5) in place of the old section 83(3) and the Tribunal's power of allowing amendment has not been curtailed excepting that the limitation of the power enunciated in the last sentence or the observation of the Supreme Court just quoted has been embodied in the section. So, if instances of a corrupt practice which has been alleged in the petition could for the first time be introduced by way of furnishing further and better particulars under old section 83(3), they can as well be introduced by way of amendment and amplification under section 90(5) of the present Act.

29. I hold accordingly that the petitioner is entitled to have the election petition amended by the introduction of the particulars enumerated in annexure F to the amendment petition. Subject to the reservations mentioned in this order the prayer for amendment be allowed and the annexures A to C, annexure D with the exception of item 3(k) under the head "Bribery to Harijans" which will be struck out and annexure F be treated as part of the election petition, annexures A to D being substituted in place of the original annexures A to D to the election petition. In view of these amendments it can be no longer maintained that the charges of corrupt practice in the petition are vague or without full and sufficient particulars.

30. The respondents No. 1 and 5 then moved the High Court of Patna under Articles 226 and 227 of the Constitution against this order and the High Court admitted their petitions and granted a stay of further proceedings. Proceedings were thereupon stayed on 7th February 1963. On 21st May 1963 orders were received from the High Court of Patna vacating the stay orders and directing the Tribunal to proceed with the further hearing of the case, though the applications were not disposed of. The trial of the case was taken up thereafter on 19th August 1963 and proceeded with till 29th November 1963 when after examination of 97 witnesses for the petitioner further trial was adjourned pending decision of the High Court in the matter of the amendments allowed by me which had been challenged in the writ petitions not yet disposed of in order to prevent any possible prejudice. Eventually the writ petitions were withdrawn by respondents No. 1 and 5 and intimation to that effect was received on 20th March 1963. The trial of the case was resumed thereafter and concluded on 25th November 1964. 124 witnesses were examined for the petitioner and 91 witnesses, for the respondents No. 1. The other respondents did not appear at the trial.

31. Before I proceed to the consideration of the next issue, viz., issue No. 3, I should refer again to the affidavit filed by the petitioner in terms of the proviso to Sec. 83(1) of the R.P. Act because at the time of final argument it was urged by the learned Advocate for the respondent No. 1 that the Tribunal should refuse to consider the evidence adduced regarding the alleged corrupt practices in the absence of a proper affidavit. Reference was made in this connection to a recent

decision of the Madhya Pradesh High Court in the case of Dwarka Prasad Mishra vs. Kamalnarain Sharma, reported in A.L.J. 1964 Madhya Pradesh 273, in which it was held that the requirement of the aforesaid proviso is mandatory and that in the absence of a proper affidavit in terms of the proviso the allegations of corrupt practices cannot be enquired into. It was further held that the defect could not be cured by permitting the petitioner to file a fresh affidavit. In my order on the preliminary issues already quoted I had taken the view that the proviso was not mandatory and that the petitioner was not debarred from agitating the question of corrupt practices in consequence of the non-filing of an affidavit in the prescribed form which would not have the effect ousting the jurisdiction of the Tribunal to try the question. Though this view of mine was challenged by a writ petition filed in the High Court of Patna, the petition was ultimately withdrawn and hence there could not be any decision of the High Court on the question in this particular case. There has, however, been a decision of the said High Court in another case before me in which also I had taken the same view regarding this proviso and against which a writ petition had been filed. This was M. J. Case No. 965 of 1962 (Mahesh Prasad Sinha Vs. Manjay Lal) decided on 30th August 1963. In that case the High Court while upholding my view that the proviso was not mandatory but directory held that any defect or irregularity in the affidavit required rectification and directed me to require the petitioner of that case to file another affidavit in the prescribed form or in the form in which it had already been filed after removing the defects therefrom. As already stated, the petitioner in the instant case filed a fresh affidavit on 16th October 1962 and prayed that this affidavit might be placed on the record. That affidavit is in proper form mentioning separately the statements in the election petition with reference to paragraphs which are true to his knowledge and those which are true to his information derived from his election agent which he believes to be true. Though I had refused to accept this affidavit in the view that the Tribunal had no power to allow the defect in the affidavit to be cured by a subsequent affidavit, the above decision of the Patna High Court makes it clear that such defect can be cured by a fresh affidavit. A proper affidavit being, therefore, on the record, the question can no longer be raised about the Tribunal's jurisdiction to try the case of corrupt practices. Though the Madhya Pradesh High Court appears to have taken a different view on the point in the case cited, I am bound to follow the above decision of the Patna High Court.

32. Issue No. 3—This issue relates to the different kind of corrupt practices alleged in the election petition which cover practically all the sub-sections of Section 123 of the Act, though all of them were not pressed at the trial. The first of such corrupt practices alleged in annexure D to the election petition relates to bribery of Harijans for giving votes to respondent no. 1 on 17th, 20th, 22nd and 24th February 1962, by respondent no. 1 and his election agent and polling agents. Nine names were mentioned in the said annexure with the names of their respective villages and from the way they were mentioned it would appear that the petitioner's case was that the said nine persons were bribed. The names of the agents who bribed these persons were not, however, mentioned in this annexure. These names were given in the amendment petition (annexure D—item no. 3) with the amount paid by each to one or other of the persons named in the original annexure D. All the persons named in the original annexure-D excepting one have been examined and they have deposed that they received the respective sums mentioned in the amended annexure D from the persons named therein for bribing Harijan voters in order that the latter might vote for the respondent no. 1. They do not say that they were the voters who were bribed, but they say that they received these sums for distribution amongst Harijan voters of their respective localities and that they distributed the same to a large number of such voters at certain rates per head. Neither in the original nor in the amended annexure D has it been suggested that these sums were paid or received for distribution amongst others. On the other hand the language used in both suggests definitely that the recipients of these sums were the voters who were bribed. Not one of the Harijan voters amongst whom these sums are alleged to have been distributed has been named by the witnesses or examined. There is also no means of knowing whether such persons were actually voters or Harijans, as alleged.

33. It has accordingly been complained on behalf of the respondent no. 1 that the petitioner has sought to make out a new case and it has been contended that such a charge of bribery cannot be established without disclosure of the names of the persons who were actually bribed and without proof not only of the fact that they were bribed but also of the fact that they were voters. Sub-sec. (1) of

Sec. 123 lays down that any gift, offer or promise of any gratification by a candidate or his agent etc., will constitute the corrupt practice of bribery, only if it is made with the object, directly or indirectly, of inducing an elector to vote or refrain from voting. Where the charge is that bribes were paid to certain voters to induce them to vote for a particular candidate, certainly the names of the voters so induced must be mentioned and proof must be given of their having received the bribes. The learned Advocate for respondent no. 1 referred in this connection to a decision of the Patna High Court in the case of Chandra Sekhar Singh Vs. Sarjoo Prasad Singh, reported in A.I.R. 1961 Patna 189, in which it was laid down that particulars of a corrupt practice alleged in the election petition must necessarily include the names of the electors alleged to have been subjected to such corrupt practice. This, it was held, followed from the use of the word "including" in Cl. (b) of Sec. 83(1) of the Act which indicated that the names of the parties alleged to have committed the corrupt practice did not exhaust the list of the names of the parties to be given in the particulars. This case related to a corrupt practice under sub. sec. (2) of sec. 123, but another unreported decision of the Patna High Court given in M. J. Case no. 36 of 1954 (Chandreswar Vs. Basuprasad) has been referred to and a certified copy of the judgment filed (Ex. 1) which related to the corrupt practice of bribery. It was argued in this case that it was not necessary to state in the particulars who had taken the bribe and that all that was required was to state who had given the bribe. This view was negatived and it was held that it was essential that the names of the persons who received the bribes should also be mentioned in the particulars in order to ensure a fair and effectual trial of the case. This decision was also referred to in the decision reported in A.I.R. 1961 Patna 189. An attempt was made by the learned Advocate for the petitioner to get over the effect of these decisions by referring to the principle laid down by the Supreme Court in the case of Bhagwan Datta Shastri Vs. Ram Ratanji Gupta, A.I.R. 1960 Supreme Court 200, that where notwithstanding the absence of particulars the evidence is allowed to be given and taken the question would not be one of absence of jurisdiction of the Tribunal to try the matter but as to whether there has been any material prejudice occasioned by the absence of particulars. It cannot, however, be said that there has been no prejudice in this case, because not only were the names of the Harijan voters actually bribed not disclosed in the annexure—original or amended, but they have not been disclosed even in the evidence. If their names had been disclosed, the respondent no. 1 could have examined them to deny that they received any bribe. In any case, the authorities cited are clear that the corrupt practice of bribery cannot be proved without evidence being given of the particular electors who were so bribed.

34. The learned Advocate for respondent no. 1 finally argued that though the witnesses examined by him have deposed that they distributed the sums received by them amongst unnamed Harijan voters, they have also stated that they deducted a share for themselves and that this is sufficient to prove bribing of at least those persons amongst them who are Harijans. The Harijan witnesses who have deposed to such distribution of bribes after retaining a share for themselves are P.W. 4 Jamuna Sad, P.W. 5 Panchelal Methar, P.W. 10 Khakkar Paswan and P.W. 11 Ganga Paswan all of whom have been named in the original annexure D. Of the other witnesses examined on this point PWs. 3, 12 and 67 are Brahmins and P.W. 69 is a Yadav by caste. Two of them said that they had retained some moneys in their hands but it does not appear from their evidence that they retained the same as bribes and in any case they are not Harijans. P.W. 4 who belongs to the Musahar community of Harijans has said that one Rajendra Singh asked him to persuade the Musahar voters of his locality to vote for respondent no. 1 and one day before the polling paid him Rs. 250/- out of which he retained Rs. 26/- for himself and distributed the balance at the rate of Rs. 2/- per head. He was paid the money in 10 rupee notes but he has not explained how or when he change these notes and distributed the money at the rate of Rs. 2/- per head. He is a day labourer and his statement is absolutely uncorroborated. No evidence has been given about the identity of Rajendra Singh and it has not been shown that he was an agent of the respondent no. 1 and was authorised by him to pay this money. P.W. 5 who belongs to Kalyanpur has said that 10 days before the polling he had been approached by Banwarl Babu, son of respondent no. 1, and one Gobardhan Bhai Patel with a request to vote for respondent no. 1 and that one day before polling at 8 p.m. in the night he was paid Rs. 150/- by them at his house for inducing the Methar voters to vote for the said respondent. He distributed the sum on the same night at the rate of Rs. 2/- per head retaining Rs. 12/- for himself. It has been argued that his evidence has been corroborated

in a way by P.W.s 67 and 69 who are also from the same village Kalyanpur and who have deposed that on the same night Banwari Babu had been to their houses and paid them Rs. 500/- and Rs. 100/- respectively for distribution amongst Harijan voters. They do not, however, mention Gobardhan Bhai Patel. P.W. 5 has not explained how he came to know Gobardhan Bhai Patel who lives at Samastipur about 12 miles off. He has also not stated that he was a leader of Methar community and no reason has been alleged why he should have been approached, if two other apparently more influential persons of the village had been approached for the same purpose on the same night. P.W. 67 has stated that he distributed money amongst Harijans at the rate of Rs. 5/- per head and P.W. 69 has said that he distributed it at the rate of Rs. 4/- per head. It is difficult to believe a story like this of three different persons distributing bribes amongst the same class of voters at such varying rates as Rs. 2/-, Rs. 4/- and Rs. 5/- per head. Such distribution would have defeated its very purpose. Both Banwari Babu and Gobardhan Bhai Patel (R.W. 27) have denied the story. According to R.W. 20, P.W. 5 was a worker of the Swatantra Party during the election. P.W. 10 Khakkar Paswan of Sahit has said that on the night before polling one Tripit Singh paid him Rs. 100/- out of which he retained Rs. 20/- and distributed the balance amongst voters at the rate of Rs. 2/- per head. Tripit Singh (R.W. 59) has denied the story and stated that P.W. 10 is a sepyo in the employment of the petitioner. Tripit Singh was a congress worker but it has not been shown that he was an agent of respondent No. 1. P.W. 11 Ganga Paswan of Pagra has deposed that he received Rs. 200/- from one Nem Narain Singh on the evening before polling and that he retained Rs. 50/- for himself and distributed the balance at the rate of Rs. 2/- per head. His evidence has been corroborated, so far as payment by Nem Narain is concerned, by P.W. 13 who has added that half an hour before this payment Banwari Babu had been to the house of Nem Narain and paid him Rs. 500/- in his presence. This witness admitted that he had canvassed for the petitioner during the election and it is therefore impossible to believe that Banwari Babu would have paid any amount meant for bribing voters in his presence. The witness is obviously interested. It has not been proved that Nem Narain was an agent of respondent No. 1. He is dead but his son (R.W. 46) has denied that Banwari Babu ever came to his house and paid Rs. 500/- to his father or that his father paid Rs. 200/- to P.W. 11. The latter, according to him, worked for the petitioner during election. Banwari Babu has also denied the story of payment to Nem Narain. There are other witnesses for the respondent No. 1 who have denied the story of bribing of Harijan voters in any of the above villages. In these circumstances I cannot believe the evidence of these witnesses and hold this charge proved. Following the decision of the Supreme Court in the case of Haris Chandra Vs. Triloki Singh, A.I.R. 1957 S.C. 444. It has been repeatedly laid down in judicial decisions that a charge of corrupt practice is quasi-criminal in character and should be proved beyond reasonable doubt by unimpeachable evidence, as in a criminal trial, and I cannot hold that the evidence consisting, as it is, of the uncorroborated testimonies mainly of the bribe-takers themselves is of that character.

35. The petitioner has alleged in para 10 of the election petition that other temptations were also held out to the voters by respondent No. 1 himself to induce them to vote for him and that one such temptation was held out to the voters of village Chandsurari where he addressed a meeting on 8th February 1962 and promised to construct a bridge over a river there at his own cost and in part fulfilment of that promise laid the foundation of the bridge on the river bank. The petitioner has examined four witnesses on this point, viz., P.W. 83 Ramgulam Singh, P.W. 84 Strilal Mehto, P.W. 85 Jaddu Misra and P.W. 94 Ramsarup Singh. Their evidence is that the respondent No. 1 came to Chandsurari by jeep 10 days before the polling which took place in this village on 18th February, 1962, met about 125 people, promised to have a bridge constructed over the river Baluhai at his own cost to remove their difficulties of transport and immediately afterwards went to the river bank and laid the foundation of the bridge with bricks and lime. He then came to a library where 500/600 people had collected and appealed to them in a long speech to vote for him because of his promise to construct the bridge at his own cost. According to this evidence, the respondent No. 1 voluntarily offered to construct the bridge and went to the river bank to lay its foundation without being asked by anybody to do so. P.W. 84's evidence is that the respondent No. 1 dug a hole on the river bank with his own hands and himself put in 25 or 30 bricks which were brought under his orders from a neighbouring brick-field. P.W. 85, however, saw a mason waiting there who dug the hole and placed the bricks. There is also discrepancy amongst the witnesses as to how the respondent No. 1 went to the river bank, whether on foot or by jeep. Apart from these discrepancies, the whole story sounds improbable and even absurd. There is no evidence that any memorial or appeal had been addressed to respondent No. 1

by the people of that locality at any time emphasising the necessity for such a bridge. There is a bridge two miles off as is admitted by the witnesses. Nobody has said that on his visit to the village or at the meeting anybody referred to this matter or requested the respondent No. 1 to get a bridge constructed for them or to lay the foundation therefor. The evidence on the other hand is that he did all this voluntarily on the spur of the moment. Construction of a bridge on a river requires a huge outlay. It is difficult to believe that a responsible person like the respondent No. 1 who has been a Minister of the Central Government for several years would have made such a promise, when he could have easily said that he would ask the local authorities or the Government for the removal of their grievance, and to suggest that he then and there went to the river bank on his own motion and arranged for brick and materials and laid the foundation of the bridge, without a scheme or an estimate having been prepared beforehand, is simply childish. It is admitted that there was a bridge in this village which only required repairs having been broken 4 or 5 years back and so there was no necessity for a new bridge. It has not been alleged that this area was so hostile to the respondent No. 1 that a dramatic gesture like this was necessary to win over the people. The respondent No. 1 has denied that he made any such promise at the meeting and did not remember to have gone to the river bank. The meeting took place on the grounds of a library and the secretary of the library has been examined by the respondent No. 1 (R.W. 17) as also the person who presided over the meeting (R.W. 19). They as also R.W. 18 have denied that there was any reference to the construction of a bridge in the speech of respondent No. 1 or that any foundation laying ceremony was undertaken by him. There was a ceremony in the library the building of which he opened, according to these witnesses. In these circumstances, I cannot believe the petitioner's case about this item of corrupt practice.

36. Evidence was also given by the petitioner that at other meeting at village Panr held about 10 or 12 days before the polling the respondent No. 1 appealed to the Muslim voters to vote for the congress and stated that if any other party came to power, they would have to go to Pakistan. With regard to this item of corrupt practice, it was only stated in para 6 of the election petition that the respondent No. 1 and his workers and partymen exhorted the Muslim voters to vote for the congress on the ground that they were only safe in the hands of the congress. The particulars of the places where such propaganda was made were enumerated in Annexure A but village Panr was not mentioned there. In the amended Annexure A village Panr was mentioned as item No. 9, the date of the meeting was given as 11th February, 1962 and the respondent No. 1 was mentioned as the only person responsible for such propaganda. Seven witnesses have deposed to this meeting, viz., P.Ws. 24, 27, 30, 31, 32, 33 and 78, two of whom are Muslims; viz., P.W. 30 Mustaque Ahmed and P.W. 78 Anwarul Haq. The learned Advocate for the petitioner relied more upon the evidence of the Muslim witnesses because the appeal was addressed to them and as regards the others referred to them as corroborative witnesses. The exact words used at the meeting have not been reproduced by any witness. No notes were made and they obviously could not remember the words spoken. Their evidence in general is that the respondent No. 1 in his speech praised the congress and then called upon the Muslims to vote for congress as the congress had always helped and supported them in the past. Thereafter he is said to have expressed the opinion that if any other party came into power, the Muslims might have to go to Pakistan. This last statement, as already stated, is not mentioned in para 6 of the election petition. It does not also occur in the amended Annexure A. If the respondent No. 1 appealed to the Muslim voters to support the congress because the congress had helped and served them, such appeal would not constitute corrupt practice. This is conceded by the learned advocate for the petitioner but he argued that the statement that if any other party came to power, the Muslims might have to go to Pakistan amounted to indirect interference, or attempt to interfere, with the free exercise of the electoral right by the Muslim voters within the meaning of sub-section (2) of section 123 of the Act. The learned Advocate for the respondent No. 1, however, argued that such a statement, even if made, would not constitute corrupt practice under this sub-section, as it should be construed to be a reference to the policy and programme of other parties as contrasted with the policy and programme of the congress. In any case, it is not clear from the evidence of the witnesses that this statement was made as an inducement to the Muslims to vote for the congress because they had already been appealed to vote for the congress on the ground of what the congress had done for them. The main question, however, is whether such a statement was made at all. The respondent No. 1 did not deny that he addressed a meeting at Panr, though he did not exactly remember the meeting, but he emphatically denied that he addressed the Muslims in the manner stated by the witnesses. P.W. 30 has stated that after the meeting he was introduced to the respondent No. 1 who appealed to him personally to support him in the same terms in

which he expressed himself at the meeting. This also the respondent No. 1 has denied. Respondent's witness No. 43 who attended the meeting denied that there was any talk between the respondent No. 1 and P.W. 30 after the meeting. He and also R.W. 44 who attended the meeting have denied that the respondent No. 1 had appealed to the Muslims in the manner suggested. In these circumstances, very strict proof is necessary that such a statement was actually made. In the absence of precise evidence about the exact words used and the context in which they were used, it would be most unsafe to rely upon the recollection of ordinary villagers like these as to what was said, specially when there is no reference to the objected statement and even no mention of the meeting at the Panr in the election petition. It does not appear from the evidence that Panr was a predominantly Muslim locality, that the meeting was largely attended by Muslims and that there was any special reason or occasion for an appeal in these terms. The respondent No. 1 as a responsible Minister of the Central Government cannot be believed to have irresponsibly held out such threats to the Muslims. In the circumstances, I am unable to rely upon the petitioner's witnesses and hold that any corrupt practice under sub-section (2) of section 123 was committed by the respondent No. 1 in respect of his address at the meeting held at Panr.

37. In the same para 6 of the election petition it was further alleged that the respondent No. 1 committed the corrupt practice of canvassing voters on the ground of caste and evidence has been adduced that, being himself a Rajput by caste, he appealed to Rajput voters to vote for him on caste basis at two places where he addressed meetings, viz., at Mirzapur and at Sahit. A meeting at Sahit on 11th February, 1962 is mentioned in the original Annexure A but the meeting at Mirzapur is not mentioned there. It is, however, mentioned in the amended Annexure A in which Mirzapur and Panr have been bracketed together under date 11th February, 1962. That the appeal was addressed specially to Rajput voters was not mentioned anywhere. The respondent No. 1's evidence is that there was no meeting at Mirzapur where he was detained by some villagers on his way to the meeting at Sahit and that he got down from his car for a few minutes and visited a school where he was welcomed and garlanded. He has denied that he addressed any meeting there. Three witnesses for the petitioner, viz., P.Ws. 15, 18 and 77, have deposed about this meeting. Their evidence, however, is that the respondent No. 1 protested against the petitioner's appeal to the Bhumihars to vote for him because he was a Bhumihar and then said that in this situation the Rajput should support him. They have not specifically stated that he appealed to the Rajputs to support him because he was a Rajput or on caste basis. The respondent No. 1 was admittedly accompanied by R.W. 26 Rameswar Singh, an Advocate of Samastipur, and he and also R.Ws. 37 and 57 have supported his statement that there was no meeting at Mirzapur and that he did not make any caste appeal to the Rajputs there. I cannot consider the witnesses for the petitioner to be more reliable than the respondent No. 1's witnesses and accept their testimony, specially when this meeting was not mentioned in the original Annexure A. About the meeting at Sahit held on the same day the evidence of the petitioner's witnesses is different. P.Ws. 17, 38 and 39 have deposed to this meeting and stated that the meeting was addressed at first by Rameswar Singh and Satyapal Misra who spoke abusing the petitioner and appealing to the Rajput voters to vote for the respondent No. 1 and that the respondent No. 1 spoke at the end supporting the statements of the previous speakers. They have neither quoted the exact words uttered nor stated that the respondent No. 1 specifically requested the Rajput voters to vote for him on caste basis. Such evidence is quite vague and cannot be taken as strict proof of the corrupt practice alleged. The respondent No. 1 has denied that there were other speakers at this meeting and also denied that he made there any appeal to Rajputs on the ground of caste. R.W. 26, Rameswar Singh, Advocate, to whom I have already referred also denied that he spoke at this meeting and made any appeal to Rajputs on caste basis and further denied that the respondent No. 1 made any caste appeal there in his speech. R.W. 7 Satvaal Misra has similarly denied that he spoke at the meeting or that the respondent No. 1 made any caste appeal to the Rajputs. Another witness present at the meeting P.W. 35 has said the same thing. Though the Sahit meeting is mentioned in original Annexure A and the names of the other speakers are there, so far as evidence goes, it is, as already stated, quite vague in respect of the respondent No. 1 and, in any case, I cannot consider the witnesses for the petitioner to be more reliable than the latter's witnesses and hold that this allegation of caste appeal to the Rajput voters has been proved. Finally there was an allegation that an appeal was made to the Maithil Brahmin community by Shri Laxmi Kanta Jha, M.L.C. to support the respondent No. 1 because of the services rendered by him to that community and some witnesses were examined on the point, but it has been denied by the said M.L.C. (R.W. 31) and the learned Advocate for the petitioner conceded at the time of argument that such appeal, even if made, could not

constitute a corrupt practice under sub-section (3) of Section 123 on the ground of caste or community as the respondent No. 1 was not a member of the Maithil Brahmin community. By finding therefore is that no commission of corrupt practice under this sub-section has been proved.

38. The next item of corrupt practice alleged to have been committed by the respondent No. 1 is under sub-section (3A) of Section 123. It was alleged in para 8 of the election petition that by the printing and distribution of a book of songs in Hindi dialect entitled 'Jawane Ki Hawa' the respondent No. 1 incited communal feeling in the minds of the Hindus and created hatred against the Swatantra Party. No copy of this book-let was filed with the election petition, nor the names of the distributors mentioned in the Annexures. A copy was, however, filed by the respondent No. 4 with his written statement and another copy was filed with the amendment petition and the names of the distributors were mentioned in Annexure C thereof with the dates and places of distribution. It was stated there that two persons distributed this booklet on 15th February, 1962, at Samastipur where a meeting was addressed by the late Prime Minister Pandit Jawaharlal Nehru and that during a mela called Basant Panchmi Mela held at village Bajitpur the songs of this booklet were sung on a loud-speaker by a hired singer whose name was unknown from 1st February, 1962, to 18th February, 1962. Evidence was given regarding distribution and singing of the songs in the booklet by seven witnesses including the alleged singer (P.Ws. 103, 104, 106, 108, 115, 117 and 120). The booklet which is Ex. 4 contains eight songs and an English translation made by the Translator of the Patna High Court (P.W. 118) has been furnished of songs No. 1, 7 and 8 and the eighth song, according to the petitioner's advocate, offends against sub-section (3A) of Section 123 (Ex. 4-1). This song runs as follows:—"Rajas and Maharajas being unanimous have formed this Swatantra Party. Do not move behind this party because it is oppressive. They will restore the vested Zamindari and they will practice greater high handedness than before. They got the country partitioned and created Pakistan in India. Rajagopalachari is the stooge of Mr. Jinnah. He will cheat you by telling lies. At first he will incite you and then get you crushed. Oh brother, save yourself from the Swatantra Party because it is a mischievous party". From the trend of this song it is clear that it is a bitter attack on the Swatantra Party, as also the other songs are and on the leader of that party Shri Rajagopalachari, but, however, reprehensible such attack may be, that would not constitute corrupt practice. It has, however, been argued that the statement that Sri Rajagopalachari was the stooge of Mr. Jinnah and created Pakistan was calculated to rouse communal feeling amongst the Hindus and spread hatred between the Hindus and Muslims. I am unable, however, to take such a view of this statement. It only refers to Sri Rajagopalachari's responsibility for the creation of Pakistan and though it is mean and reprehensible to depict that leader as the stooge of Mr. Jinnah, there is no scope for the suggestion that the statement was intended or calculated to create bad blood between Hindus and Muslims and rouse communal feeling. There is no communal appeal here either to the Hindus or to the Muslims. I cannot therefore agree with the contention of the learned Advocate for the petitioner that it offends against sub-section (3A) of Section 123.

39. In this view it is not necessary to discuss at length the evidence of the witnesses who have spoken to the distribution of the booklet and the singing of the songs. It is necessary to state, however, that there is absolutely no evidence connecting the respondent No. 1 with this booklet. It was stated in the election petition that he got it printed. It was published by a person named Ramdeo Singh described as the author and printed in Rambhajan Press, Samastipur. The owner or manager of this press has not been examined. One witness P.W. 119 Jugal Kishore Prasad however stated that he worked as a compositor in this press and that on last day of January 1962 Banwari Babu, the son and election agent of the respondent No. 1, came to the press and gave the manuscript of the booklet to the manager of the press who called the witness and asked him to compose the manuscript. After that the booklet was printed. He was not the actual printer of the document and for a compositor to remember what he had composed two years ago is certainly difficult. No books or papers from the press were called by the petitioner. Banwari Babu has denied the story. In the face of this denial I am unable to find on the uncorroborated statement of a witness like this that he got it printed. P.W. 120, the alleged singer, said that he was engaged, and that the book of songs was handed over to him, by Banwari Babu. I have already stated that the singer was described as unknown in the amended Annexure C. It has not been explained how his name was obtained. There is no allegation in Annexure C that Banwari Babu had engaged the singer. A rickshaw puller (P.W. 117) has been examined who has said that his rickshaw was hired by Sitaram Pankaj from which the singer sang the songs and P.W. 115 has said that Sitaram Pankaj hired his loudspeaker for this purpose. P.Ws. 103, 104, 106

and 108 have deposed to distribution and named the distributors, viz., Sitaram Pankaj, Kamala Babu and Tripit Narayan Singh who have denied the fact R.Ws. 10, 59 and 65). The owner of the Basant Panchmi Mela ground (R.W. 85), a cousin of the petitioner, and several other witnesses who attended the Mela have also denied that these songs were sung there. The evidence, in my opinion, is worthless and I find that no connection of the respondent No. 1 or his election agent has been established with the publication or distribution of this booklet.

40. In paragraph 7 of the election petition it was alleged that the congress party workers and agents of respondent No. 1 distributed to his knowledge and with his connivance certain leaflets in Hindi casting heinous and false aspersions on the character of the petitioner and three such leaflets were mentioned in Annexure B without any other particulars regarding publication and distribution. Only one of these leaflets was, however, referred to at the trial and it has the title "Kalka Kukarmi, aj Sadhu ke besh me". This leaflet was not filed with the election petition. In the written statement of respondent No. 4 Hemanta Kumar Chowdhuri, son and election agent of the petitioner, certain particulars were furnished about this leaflet and a copy thereof was filed with it. Another copy was filed with the petition for amendment and in the amended Annexure B full particulars were furnished including the names of the distributors of the leaflet and the names of the villages where it was distributed with dates. The leaflet has been marked Ex. 2 and an English translation of it has been made by P.W. 118 Vindeswari Prasad, Translator of the Patna High Court. This is the English translation (Ex. 2-1) :—

"SINNER OF YESTERDAY TURNS A PIOUS MAN TODAY.

List of the black deeds of Ram Ashray Choudhry.

- (1) It is known to all that he is the man who spoiled the character of Sita Devi, mistress, and reduced her to the state of begging from door to door. It is for this reasons that he has been showering shoes on his wife. The people have seen the instances of his misbehaviour with the girls of Nag family. He has spoiled their prestige and at the same time blackened his face.
- (2) How does he think himself to be a respectable person when, on misbehaving by force at the house of the Dushadh in Dushadh Toll in Dalsingarai Ganj he had to sustain assault by shoes and his cycle was snatched away.
- (3) Is it his prestige that he is alive even after being beaten with Kurpi (instrument for cutting grass) and basket by the girls who cut grass?
- (4) Was his daughter mad that she ended her life by putting herself in fire? It is not so. He burnt her to death as she became pregnant only when she was unmarried. Sin cannot be concealed in spite of an attempt to do so. His misdeeds were at last brought to light.
- (5) Does he think himself to be the descendant of an Englishman that he allowed his cinema house to run even on the date on which the late Father of the Nation Babu was shot dead by a sinner like him. The entire world plunged into grief while he was giving proof of the fact that he was a descendant of an Englishman.
- (6) It is his vain dream to expect himself to be a leading member in the House of People when he has no knowledge of Hindi alphabet and still tries to massacre English language. He has an old coat of 1942 and a half pant by putting on the same he assumes a pose of an Englishman. He should shed tears for the action of his father that he could not make him literate. He cannot get the support of the people, by any means, nor can his English father come to his help. It is democracy. The people will not welcome him by casting votes (for him) but by showering shoes (on him).
- (7) It is his another vain dream to expect to be a leader that in spite of his highhanded actions to the poor he tries to persuade them by giving temptation. He has forgotten that he demolished the huts of Turha community and brought into existence Ram Ashray Nagor. The walls of Ram Ashray Nagor have been built by the mortar prepared with the blood of the poor.
- (8) He has obtained a sum of Rupees one lac for contesting the election. Has he received this money from his English father or from his step brothers, who in spite of being congressmen have become deserters today? When he cannot give more than Rs. 50 to his unworthy sons for their expenses, it is not understandable as to how he has become so lavish in expenses.

- (9) It is known to the people that he has taken three lacs of rupees in the name of cold storage after practising fraud upon the Government and after converting his old house into cold storage he allowed thousands of maunds of potatoes belonging to the shopkeepers to rot therein and when being asked to pay the compensation for the loss, he is threatening them and they have no chance at all of getting back their money. He has embezzled thirty thousand rupees of the fund of the school about which a report has been already sent to the authorities. Not only this much, but the Balika Vidyalaya had to be closed on account of his keeping the mistress with himself. The entire public of Dalsingsarai denounces his mean temperament.
- (10) There are many instances of his misdeeds which will be brought to light in bulletin No. 2. Being the resident of Dalsingsarai it becomes our duty to acquaint the public of Samastipur and Warisnagar also with the actions of wrong doer like him.
Public of Dalsingsarai area."

41. It will be seen from the translation that leaflet is in fact a scurrilous document and contains most heinous and damaging aspersions on the personal character and conduct of the petitioner. He has stated that all the statements of fact in this leaflet are absolutely false and there has been no allegation on the other side that any of these statements are true. There can be no doubt that the publication of such statement, if made by the respondent No. 1 or his agents, would offend against sub-section (4) of Section 123. This sub-section makes publications by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election. It has, however, been contended on behalf of the respondent No. 1 that in order to attract this sub-section the statements in the leaflet should not only be proved false but that it should also be proved that the person responsible for its publication believed them to be false or did not believe them to be true and that the onus to prove it is on the petitioner. Such proof it is contended, is wanting in this case and the mere statement of the petitioner that the statements of fact are false is not sufficient to meet the requirements of the sub-section. Reference has been made in this connection to the decision of the Patna High Court in the case of *Badrinarain Singh Vs. Kamdeo Prasad Singh*, reported in AIR 1961, Patna 41. It was laid down in that case that all the essential ingredients of sub-section (4) of Section 123 must be proved and that the onus to prove them lies heavily on the petitioner, one of the essential ingredients being that the person responsible for publication must either believe the statement published to be false or must not believe it to be true. There the impugned statement was that the petitioner had tendered apology for offences committed by him in the Congress Movement in 1942 and that the case against him had been withdrawn in consequence. The petitioner denied the apology but admitted withdrawal of the case, though he did not disclose the reasons therefor. The statement was based on a letter of the Sub-divisional Officer, Deoghar. It was held that mere denial of the apology in these circumstances was not sufficient to discharge the onus that lay upon the petitioner as he did not call for the relevant record to establish that he had not tendered apology and that the publisher was protected, as he had reasonable grounds to believe the statement to be true. Thus the facts of that case are quite distinguishable from the facts of the present case in which the statements are such that no question can arise of the publisher having any reasonable grounds to believe them to be true. No such suggestion was made either to the petitioner or to any of his witnesses. In these circumstances I think that the denial by the petitioner of the truth of these statements is sufficient to discharge the onus.

42. The conduct of the person who was responsible for the publication of this scurrilous document cannot certainly be sufficiently condemned, but the question here is whether the respondent No. 1 was responsible for its publication. He has denied it and it has been pointed out on his behalf that he was not the only candidate contesting the election against the petitioner, but that there was another candidate, the respondent No. 2, who got more votes than the petitioner and who was as much, if not more, interested in reducing the petitioner's votes in order to better his own election prospects and who, therefore, might as well have been responsible for its publication. The leaflet itself does not contain the name of any press or of any publisher. No evidence has been given that Purushottam Prasad Singh *alias* Banwari Babu, his son and election agent, got it printed from Sankar Press, Patna. This press is mentioned in the amended Annexure B. One Dharendra Kumar Verma (P.W. 91) deposed that he had worked as a compositor in the said press for a period of 1½ months from 15th

January to the end of February 1962 on piece-rate basis and that in the second week of February Banwari Babu and Satyapal Misra came to the press and met the proprietor Radha Krishna Prasad who called him and giving him the manuscript of the leaflet asked him to compose and print 3000 copies immediately. He was directed not to print the name of the press therein. He immediately composed and printed the proof copy and the proprietor after correction of the proof gave the printing order. By 8 a.m. on the next day the copies were ready and delivered to the proprietor and the proof copy and the manuscript were destroyed. He has not said to whom the copies were delivered by the proprietor and when. As to how he knew Banwari Babu his evidence is that he had once seen him at the Collector's Court at Darbhanga in 1957 where he had gone to meet his father-in-law who was a pleader's clerk. He could not name the pleader. He admitted that his father-in-law had no case in the Collector's Court that day. He has not explained who pointed out Banwari Babu to him or why. He admitted that his name was not entered in the register of the regular employees of the press because he was a thika piece-rate worker. He was neither the printer nor a permanent or long-term employee and it is difficult to believe that he of all persons should have been entrusted by the proprietor with a responsible job of this nature requiring secrecy. He stated that the leaflets were printed in monotype but admitted that there was no mono-machine in the press. The proprietor of the press Radha Krishna Singh has been examined by the respondent No. 1 (R.W. 78). He has denied that P.W. 91 ever worked in his press in any capacity and also denied that a wages slip (Ex. 3) which was produced by P.W. 91 was issued from his press or contained his signature or that the rubber stamp on it was of his press. He has further denied that the leaflet, Ex. 2, had been printed in his press or that Banwari Babu and Satyapal Misra had gone to his press for getting it printed. He has produced his register of piece-rate workers (Ex. F) which does not contain the name of P.W. 91. Satyapal Misra is the editor of a paper named 'Karmi' which is sometimes printed from this press. He has been examined by the respondent No. 1 (R.W. 7) and denied the incident. It has been argued that Ex. 2 being a defamatory document, no press-owner who might have printed it would be likely to admit its printing and thereby make himself liable for the statements contained therein and that no importance should therefore be attached to R.W. 78's denial. But the onus is on the petitioner to prove that this leaflet was printed in this press at the instance of Banwari Babu and certainly this onus cannot be said to have been discharged by the examination of a worthless witness like P.W. 91 who has been disowned by the proprietor of the press. It has been contended that his evidence has been corroborated in a way by the evidence of another press-owner of Dalsingsarai (P.W. 26) who has deposed that a fortnight before the election he had been summoned by Banwari Babu and requested to print this leaflet, which he refused to do on reading the manuscript as it contained abuse of the petitioner, and that Satyapal Misra who was there then said that he would get it printed from Sankar Press, Patna where his paper 'Karmi' was printed. This witness had admittedly been prosecuted by Satyapal Misra in a criminal case of defamation in respect of a hand bill printed by him on behalf of the petitioner who was a co-accused in that case. The case was eventually compromised but it shows the close connection between the petitioner and this witness who has also admitted that he printed some election materials for the petitioner in 1962. Dalsingserai was the headquarters of the petitioner and, according to R.W. 9, this press was situated in a premises belonging to the petitioner himself. In these circumstances, it is not possible to believe that this press-owner of all persons would have been approached for the printing of a document like this directed against the petitioner. Banwari Babu and Satyapal Misra (R.W. 7) and the other persons said to have been present at the time, viz., Baleshwar Ram (R.W. 83), Makhan Surekha (R.W. 8) and Jagdish Chaudhuri (R.W. 9) have all denied his story and I cannot accept it in the face of such denials and the circumstances mentioned. I find therefore that the petitioner has failed to establish that Banwari Babu got the leaflets printed at the Sankar Press, Patna.

43. With regard to distribution of the leaflets also the principal part is said to have been played by Banwari Babu. Strangely enough, however, his name is nowhere mentioned in the election petition. All that is stated there is that the congress party workers and agents of respondent No. 1 distributed the leaflets. Even the words 'election agent' do not occur there. This is stranger still because Hemanta Babu, the son and election agent of the petitioner, (P.W. 124), has given evidence that he had himself drafted the election petition and that he had come to know of the distribution of leaflets by Banwari Babu and secured a copy thereof on 22nd February, 1962. He showed it to his father and under his direction he drafted a petition complaining against such distribution and addressed it to the Returning Officer, Samastipur. He took it to Samastipur on 23rd February, 1962, met the Sub-divisional Officer of Samastipur and presented the

petition to him through Shri S. S. P. Sinha, the Second Officer. A copy of the leaflet was enclosed with this petition. These two officers (PWs. 99 and 111) have corroborated this. This copy of the leaflet was forwarded by the Sub-divisional Officer, Samastipur, to the District Magistrate, Darbhanga who was the Returning Officer of this Parliamentary Constituency, with a report and the latter (PW. 98) has proved it. The petition of complaint has been marked Ex. 5 and the report which contains the copy of the leaflet is Ex. 1. The all important fact that Banwari Babu himself was distributing the leaflets is not, however, mentioned in the petition, Ex. 5, where the only statement is that these leaflets were being distributed to the public in general by the 'men and agency of Sri Satya Narain Sinha'. If he had come to know on 22nd February 1962 that the leaflets were being distributed by Banwari Babu, it is very strange that Hemanta Babu should have omitted Banwari Babu's name in the petition, since mention of his name would have directly connected the respondent No. 1 with the distribution of the leaflets. The vague statement about distribution by "men and agency" of respondent No. 1 is absolutely inexplicable in view of the case made at the trial. Even in his written statement filed on 28th August 1962 Hemanta Babu did not mention Banwari Babu as the distributor of the leaflets. In this statement it was alleged that he had approached the respondent No. 1 personally and protested to him against the distribution of such leaflets but he did not refer to this fact in his evidence and no such suggestion was made to the respondent No. 1. The story of distribution by Banwari Babu himself was introduced for the first time in the amended petition filed on 16th October 1962 six months after the filing of the election petition. There is therefore justification for the contention of the learned advocate for respondent No. 1 that it was an after thought and the motive for the introduction of such a case in the amendment has also been suggested. It is pointed that the difference in votes between the petitioner and respondent No. 1 is 37, 111 and that, that being so, it would be an impossible task for the petitioner to establish that the result of the election had been materially affected by the distribution of these leaflets. His only hope of success lay therefore in attempting to prove that this corrupt practice had been committed by respondent No. 1's election agent himself and thereby bring the case within the purview of Sec. 100 (1) (b) of the Representation of the People Act, 1951. This is an important consideration to be borne in mind in judging the evidence adduced on this part of the case.

44. That evidence has also certain very peculiar and rather unusual features. According to amended annexure B, Banwari Babu distributed the leaflets from a jeep in seven villages on 17th February 1962, in Samastipur town on 21st February 1962, in three more villages on 22nd February 1962, in five other villages on 24th February 1962 and finally in three villages on 25th February 1962. Evidence has been given regarding distribution by him in eight villages only and in Samastipur town. The first peculiar thing to note is the method of distribution. The general evidence of the witnesses is that he came to the villages by a jeep, stopped on the road-side, distributed the leaflets to the persons he found there, whose number, according to the witnesses, never exceeded 10 or 15 at a place and who were generally attracted to the road-side by the sound of the arrival of the jeep, and then left. He did not stop at any place for more than 5 or 10 minutes. He never asked the people he met to support the congress or his father. In fact it is not stated by any witness that he made any propaganda or addressed any word to them. He was a silent distributor who was anxious to finish his job as quickly as possible and then to move on. The distribution was not even made systematically in village after village on the route covered by the jeep. The evidence rather suggests that he visited one village and then another several miles apart skipping over the intermediate villages. The second peculiar thing is that the distribution was made either on the day of polling or on the day before. Even in Samastipur town which was the headquarters of the respondent No. 1 who had an election office there the leaflets were distributed on the polling day, viz., 21st February 1962. The printed leaflets were ready, according to the petitioner's case, on or before 17th February 1962 and no reason has been suggested why the distribution of the leaflets in Samastipur should have been put off till the morning of the polling day after the commencement of the poll. In certain other villages also distribution was made on the polling day, viz., 25th February 1962. There are witnesses who have said that they received the leaflets after they had cast their votes. It is not that Banwari Babu, as election agent, wanted to visit the polling booths on the day of polling to ascertain or enquire how it was going on. The evidence does not suggest that he did visit any of the polling booths or make any enquiries about the polling. Banwari Babu was in charge of the election affairs of his father at Samastipur and it is strange that he should have moved about and travelled long distance by jeeps on the polling day or on the day before polling simply to distribute these leaflets to stray road-side villagers. He has said that he never moved out of the election

office or the town of Samastipur where he was very busy and it has been corroborated by several witnesses of respondent No. 1, viz., RWs. 5, 10, 12, 24 & 25 who saw him in election office on the alleged dates of distribution. The Congress had workers in nearly all the villages, but it has been argued that it was not considered safe to entrust the distribution to them or that in view of the nature of the leaflet they might not have agreed to undertake the task. It is worthy of note, however, that no special animosity against the petitioner has been suggested as the reason for the propagation of these leaflets by Banwari Babu personally. It would rather be more natural to presume that in view of the nature of the leaflet he would have considered it safer and more proper not to implicate himself in the matter of its distribution. If the distribution of the leaflets was intended to influence the voters at the last moment or if it was thought that the distribution by Banwari Babu himself would have swayed the voters more than distribution by ordinary workers, the evidence shows that the move failed altogether. With one or two exceptions every witness has said that he read his copy of the leaflet and then destroyed it because it was a filthy document. Nobody has suggested that he believed the allegations in the leaflet or was in any way influenced thereby against the petitioner. All these considerations tend to show that the story of distribution given by the witnesses is neither natural nor probable.

45. So far as the witnesses are concerned, though the petitioner has examined a large number of witnesses to prove distribution of the leaflets, an equally large number of witnesses for respondent No. 1 has denied it. Evidence has been given that the first distribution was made by Banwari Babu on 17th February 1962 in the villages of Sankmohan, Bibhutpur, Mustafapur and Kalyanpur. PW. 72 is, however, the only witness from Sankmohan and PW. 82 from Bibhutpur. Besides Banwari Babu RWs. 53, 55 & 56 from Sankmohan and RWs. 15, 16 & 54 from Bibhutpur have denied such distribution. In the face of such overwhelming denial the solitary evidence of PWs. 72 & 82 cannot be believed. Regarding distribution at Mustafapur there are four witnesses two of whom, viz., PW. 20 and PW. 36, however, do not belong to the village. PW. 20 lives 8 or 9 miles off but says that he had come to this village on that day for canvassing on behalf of the Praja Socialist Party candidate. He was a worker of that party and polling agent of respondent No. 2. Similarly PW. 36 who lives 6 miles off had been there to canvass for the Swatantra Party candidates. Both must therefore be taken to be chance and interested witnesses. PWs. 70 and 71 are no doubt residents of Mustafapur. But there is a suggestion against them that they worked for the petitioner during the election. I cannot consider their evidence as sufficient and reliable. This distribution has been denied by RW. 89 besides Banwari Babu. The last place about which evidence has been given of distribution on 17th February 1962 10.00 a.m. is Kalyanpur which is 3 miles off from Mustafapur (RW. 89). The witnesses are PWs. 69, 73, 86, 89, 90 and 109. Four of them excluding PWs. 89 and 109 were Swatantra Party workers during election, according to RW. 20. I have already criticised the evidence of PW. 69 in connection with the allegation of bribing of Harijan voters. Besides, according to him, Banwari Babu had been to his house on the same day in the evening to pay money for distribution amongst Harijan voters and Kalyanpur being 14 miles off from Samastipur (PW. 73) to suggest that Banwari Babu had been to the village once at 10 a.m. and again in the evening or at night is something improbable. PW. 73 has admitted that he was the polling agent of the petitioner and is therefore obviously interested. PW. 86 said that he had connection with Banwari Babu as he had worked for the Congress during election, but in that case there was no reason why a copy of the leaflet should have been given to him. He was Upamukhya of the Grampanchayat and said that he had complained about the leaflet to his Mukhiya at the Grampanchayat Office, but the Mukhiya (PW. 109) said that he also received a copy of the leaflet at the same time as PW. 86. They were together but PW. 86 did not say so and on the other hand his statement suggests that the Mukhiya was not present during distribution. PW. 109 made an absurd statement that he had handed over his leaflet to a Police Constable as he considered it objectionable. PW. 89 spoke about having received a leaflet like Ex. 2 printed on red paper, but Ex-2 is printed on white paper and there is no evidence that any copies were printed on red paper. He was not named by the Mukhiya PW. 109 as having been present at the distribution of the leaflets. PW. 90 has been so named but his evidence is that he had reported about the leaflet to the Mukhiya which suggests that the Mukhiya was not present at the distribution. This distribution has been denied by besides Banwari Babu as many as four witnesses for the respondent No. 1, Nos. 20, 21, 22 and 23. In the face of such denials and in view of the contradictory nature of the evidence and the general considerations discussed above I am not able to accept and rely upon it. This exhausts all the evidence regarding distribution on 17th February 1962.

46. Evidence has next been given regarding distribution on 21st February 1962 at Samastipur town and four witnesses have been examined on the point, viz.,

PWs. 44, 45, 46 and 47. Curiously enough, none of them belongs to Samastipur. PW. 44 belongs to Dalsingsarai P.S., 15 or 16 miles off and was a voter there. He says that he was manager of a firm at Samastipur but this has been denied by RW. 14 who is the proprietor of a store situated close to that firm. RW. 14 has further said that the proprietor of that firm is a teacher in the petitioner's school at Dalsingsarai and hence under his influence. PW. 45 lives 6 miles off from Samastipur. He had been there to purchase cloth on that day. PW. 46 also lives 6 miles off from Samastipur and had been there to purchase medicine. Both of them say that they had reported the distribution of the leaflets by Banwari Babu to Hemanta Babu on the day of counting of votes at Samastipur, but this was not corroborated by Hemanta Babu. PW. 47 had been to Samastipur to see, as he said, the 'tamasha' of voting. He spoke of distribution at 11 a.m. which on a polling day is most improbable. He also reported this matter to Hemanta Babu 4 or 5 days after the polling, but this has not been corroborated. It is strange that the petitioner could not find any voter or witness from Samastipur to prove this distribution which has been denied by as many as seven witnesses besides Banwari Babu, viz., RWs. 14, 39, 41, 66, 67, 71 and 72, some of whom are very respectable being businessmen, Advocates, Municipal Chairman and Vice-Chairman. In view of the nature of the petitioner's witnesses and this overwhelming evidence of denial coupled with the improbability of delayed distribution till 11 a.m. on the polling day already remarked upon I cannot place any reliance on them.

47. With regard to distribution of the leaflets by Banwari Babu on 22nd February 1962, evidence has been given that he distributed them on that date at two villages, viz., Khalishpur and Udupatti. Two witnesses, viz., PW. 49 and PW. 53, have deposed to distribution at Udupatti in the evening of that date which was the day before polling. Neither PW. 49 nor PW. 53 is a resident of Udupatti proper. PW. 49 named certain persons who also got copies of the leaflets along with him but he did not name PW. 53. According to RW. 33 who is Vice-Principal of a college and was a Swatantra Party candidate for election to the Assembly in 1962, both these witnesses worked for the Swatantra Party during that election. They are therefore obviously interested witnesses. PW. 49 has said that he took his copy of the leaflet to the Mukhiya of the village Anirudh Babu and then handed it over to Hemanta Babu. The latter has said that this was the first copy of the leaflet he received at the house of the Mukhiya which he filed with his petition, Ex. 5, on the next day. The witness is not, however, named in Ex. 5, nor his village mentioned. Hemanta Babu's evidence is that he had been out on tour on that day and had visited the villages of Khalishpur and Udupatti, but RW. 13, an Advocate and a member of the Swatantra Party, and RW. 39, the Secretary of a Thana Swatantra Party and a candidate for election to an Assembly seat from that Party, have said that they accompanied Hemanta Babu in this tour and that on account of the breakdown of the jeep in which they were travelling at Kalyanpur they could not go to these villages at all but returned by rickshaws to Sanstipur. This evidence renders improbable the story given by Hemanta Babu. Other witnesses like RWs. 33 and 62 have also denied Hemanta Babu's visit to these villages. Distribution of leaflets at Udupatti has been denied by respondent's witnesses Nos. 29, 30 & 53 besides Banwari Babu. I am therefore unable to rely upon this evidence of distribution. As to distribution at Khalishpur six witnesses have been examined, viz., PWs. 48, 50, 51, 52, 54 and 55. PW. 48 has said that distribution was made by Banwari Babu at about 2.0 p.m. He has also said that in the same afternoon he had informed Hemanta Babu about the leaflet in detail but Hemanta Babu did not name him as an informant. PWs. 52 and 55 have been named by Hemanta Babu and they have said that they reported the distribution to him. But if Hemanta Babu did not visit Khalishpur at all that day, as the respondent No. 1's witnesses prove, all this evidence is worthless. According to RWs. 62, all these witnesses worked for the Swatantra Party during election. The distribution at Khalishpur has been denied by RWs. 33, 62, 63 and 64 besides Banwari Babu. The evidence regarding this distribution may be voluminous but it is of little worth and I cannot place any reliance upon it. Finally on 25th February, 1962, also a polling day, Banwari Babu is said to have distributed the leaflets in two villages, viz., Gohi and Brahama. From Gohi only one witness, P.W. 56, has come and from Brahama two, R.Ws. 58 and 59. The solitary evidence of PW. 56 cannot be accepted as against denial by Banwari Babu and another witness, RW. 40, according to whom PW. 56 worked for the Swatantra Party during the election. PWs. 58 and 59 are certainly interested in that Party being relations of a candidate for election to the Assembly from that Party. Besides Banwari Babu three more witnesses from Brahama, RWs. 68, 69 and 70 have denied such distribution. I cannot therefore accept this evidence of distribution. The result therefore is that the petitioner has failed to prove distribution of the leaflets by Banwari Babu in any of the villages alleged.

48. The next person who has been made responsible by the petitioner for distribution of these leaflets in as many as nine villages is Sri Balcewer Ram, a

State Minister of the Government of Bihar, who at the time of election was a Parliamentary Secretary. He stood for election to the Bihar Legislative Assembly from Dalsingsarai West Constituency, the polling for which took place on 21st February, 1962. He is said to have distributed the leaflets at Mirzapur, Simri, Sahit or Bajitpur, Nagargawa and Garsisai on 19th February, 1962, at Gospur and Rampur Jalalpur on 20th February, 1962, and at Asinchawk and Pagra on 21st February, 1962. All these villages are within his constituency. The same improbabilities as in the case of Banwari Babu and even more attach to the evidence of distribution by him. The method of distribution is the same, the evidence being that he visited these villages by a jeep, stopped on the village road, distributed the leaflets to ten, fifteen or twenty persons found there and then left. It is not stated that he said anything or made any propaganda with regard to his own election or even asked the people he met to vote for the Congress candidate. He did not even visit the polling booths on the day of polling and is said to have distributed the leaflets long after the polling had commenced. Thus P.W. 21 has said that he received the leaflet from him at noon while he had cast his vote at 7.30 A.M. A candidate for election should be expected to be busy about his own election on the polling day and the days immediately preceding and it is impossible to believe that he would have travelled long distances even up to 14 miles from his residence for distribution of a leaflet which did not concern his election at all and was unlikely to do any good to the Congress cause. It is still more impossible to believe this of a responsible person who was holding the office of Parliamentary Secretary at the time. It is not alleged that he had any special grudge or animosity against the petitioner on account of which he took this unusual course of distributing leaflets attacking the latter's personal character at the risk of his own reputation. The only suggestion is that he bore a grudge against the Swatantra Party because one Ram Padarath Mahto, a candidate for election from that party in 1962, had in 1957 filed an election petition against him. But that petition was ultimately dismissed in appeal as against him and in 1957 Swatantra Party was not in existence. The witnesses regarding such distribution are generally one or two from each village—in all 18, viz., P.Ws. No. 15, 16, 17, 19, 20, 21, 28, 35, 37, 38, 39, 76, 80, 81, 88, 96, 97 and 107. They are stereotyped witnesses of the same kind and I am not impressed by them. I do not therefore propose to discuss their evidence in detail. Sri Baleswar Ram himself (RW. 83) and a large number of witnesses, viz., RWs. 36, 37, 38, 45, 46, 57, 77, 79, 81 and 82 have denied such distribution and in the face of such denial and the improbabilities already remarked upon I am unable to accept this evidence. It is also not proved that Sri Baleswar Ram was in any way an agent of the respondent No. 1 authorised by him or his election agent to make such distribution.

49. Another person who is said to have distributed the leaflets in three villages, viz., Maniarpur, Ghato-Bhairopatty and Chandchar, on 21st February, 1962, and 22nd February, 1962, is Sitaram Pankaj (RW. 65). He is not a local person but belongs to Monghyr district and since 1961 he has been staying at Goorgaon in East Punjab and doing business there. He has admitted, however, that during January and February 1962 he was at Samastipur doing election work on behalf of the Congress in the neighbouring villages and that he was the polling agent of respondent No. 1 at Udaipatti. The above named villages are in Dalsingsarai West Assembly constituency but he said that his election activities were confined to Samastipur West Constituency and that he had no occasion to go to the other Constituency. According to the petitioner's case, he was in-charge of the election office of respondent No. 1 at Dalsingsarai, but he has denied it. In any case, he was not a man who knew or was known in the locality and it does not seem probable that he would have been entrusted with the work of distribution of these leaflets. He has denied that he distributed any such leaflet anywhere. P.W. 22 the first witness who speaks of distribution by him at Maniarpur did not know him at all. He only heard people saying that the distributor was Sitaram Pankaj. P.W. 25 another witness from Maniarpur was the polling agent of a P.S.P. candidate for the Assembly in the village polling booth and it being the polling day it does not appear how he would have been on the road to receive the leaflet. He admitted that he had been present at the polling booth when the boxes were sealed that morning but said that thereafter he left for home neglecting his duties as polling agent. This is difficult to believe. There is only one witness from Ghato-Bhairopatty and he is P.W. 34, a Mukhiya. He also did not know Sitaram Pankaj before the election. He said that Sitaram Pankaj gave him 25 leaflets for distribution but he did not distribute them. None of these has been produced and it has not been stated what happened to them. He had met a son of the petitioner a few days later but he did not hand over any of the leaflets to him. He did not even read the leaflet. This distribution has been denied by three witnesses, viz., RWs. 73, 75 and 76. About distribution at Chandchar five witnesses have been examined, viz., P.Ws. 60, 61, 62, 63 and 74. Their evidence is of the same stereotyped kind and four of them said that they had reported about distribution of these leaflets to Hemanta Babu a few days later, but this has not

been corroborated by the latter. RWs. 49 and 58, one of whom is a teacher and the other a registered Vaidya, have denied this distribution. According to RW. 58 all the five witnesses for the petitioner had worked for him during the election. In these circumstances I cannot accept their evidence as also the evidence of the other witnesses and find that these leaflets were distributed by Situ Ram Pankaj.

50. I do not propose to discuss in detail the evidence of distribution by certain other persons, namely Satyapal Misra (RW. 7) who is said to have distributed the leaflets at Dalsingsarai on the morning of the polling day 21st February, 1962, Ramakanta Misra (RW. 11) who is said to have distributed the leaflets at Kalyanpur and Birsingpur on 22nd February, 1962, Jagdish Chowdhuri (RW. 9) and others who are said to have distributed them at Keota on the polling day 21st February, 1962 and Damodar Chowdhuri (RW. 61) and Makhan Lal Surekha (RW. 8) who are said to have distributed them at Dalsingsarai also on the same polling day. Regarding such distribution one or two witnesses from each place, excepting that there are four from Kalyanpur, have been examined by the petitioner. They are PWs. 40, 41, 42, 43, 64, 65, 68, 75 and 95. The alleged distributors have all denied it and certain other witnesses for respondent No. 1 like RWs. 28, 50, 51, 52, 74, 85 and 86—two of them from Kalyanpur have denied it too. The method of distribution is the same and it is not alleged that any of these persons spoke anything or indulged in any canvassing. Many of the petitioner's witnesses had been workers of the Swatantra Party during the election and, according to RW. 51, all the witnesses from Kalyanpur were such workers. Apart from all that, it has not been proved that these persons were agents of the respondent No. 1 and had been authorised by him or his election agent to distribute the leaflets or did so with their consent. Satyapal Misra admitted that he had worked for the Congress during the election but that is not sufficient. Makhanlal Surekha was not a Congress worker and denied that he had worked for the respondent No. 1 during election. Jagdish Chowdhuri was Joint Secretary of Dalsingsarai Thana Congress Committee, but that also is not evidence of his agency. Damodar Chowdhuri has denied that he had worked for the respondent No. 1 during the election. He was a polling agent for Shri Baleswar Ram, but that is another matter. Ramakanta Misra of course admitted that he had worked for respondent No. 1's election and was his polling and counting agent, but that is no proof that he was authorised to distribute these leaflets or did so with his consent. Two witnesses for the petitioner spoke of distribution of these leaflets by one Goswami, but his full name was not given, and so the learned Advocate for the petitioner did not press this part of his case. The result is that, in my opinion, the petitioner has failed to establish his case regarding this point and I find that no corrupt practice under sub-section (4) of Section 123 of the R.P. Act, 1951 was committed.

51. The next item of corrupt practice alleged is the hiring or procuring of bullock carts and rickshaws by the respondent No. 1 or his agents for the conveyance of voters to or from polling stations under sub. sec. (5) of section 123. With regard to hiring of bullock carts no names were mentioned in annexure D to the election petition. In paragraph 15 of the petition certain names were mentioned and it was alleged that they had hired rickshaws on behalf of respondent No. 1 for conveyance of voters to certain polling booths. It was not stated, however, from whom the rickshaws were hired. In the petition for amendment certain names of bullock cart-owners and hirers were mentioned in annexure D but the names of the rickshaw owners were not disclosed. Evidence has been given that the bullock-carts of PW. 6 Thaman Rai and PW. 9 Laxman Rai, who are two of the cart-owners named in amended annexure D, were hired at Keota by one Kapildeo Choudhury on the polling day for carrying voters. It has not been proved, however, that Kapildeo was an agent of respondent No. 1. Nor has any evidence been given as to which voters were carried in these bullock carts. RWs. 74 and 86 of Keota have given evidence that PWs. 6 and 9 are tenants of the petitioner and that they had no carts at the time of election. They have also denied that any voters were conveyed to the polling booth in bullock-carts. PW. 6 produced a licence for a cart but it was not for the year 1962. He admitted that he had no personal knowledge that Kapildeo was a worker of the respondent No. 1. PW. 9 did not produce any licence for his cart. These are worthless witnesses and cannot be believed—the more so because of the fact that not a single name out of the voters said to have been carried in their carts has been disclosed. There is also no proof that Kapildeo was an agent of respondent No. 1. With regard to rickshaws, evidence has been given by PW. 7 and PW. 8 of Dalsingsarai that their rickshaws were hired by Deviprasad Agarwalla, Satyapal Misra and Makhan Surekha on the polling day for the conveyance of voters. These persons who are RWs. 7, 8 and 84 have denied the story and have also denied that they were agents or workers of respondent No. 1. According to RW. 7, PW. 8 is a cloth merchant and does not own any rickshaw and his shop is situated in the premises of the petitioner. PW. 8 admitted that

he held no licence for his rickshaw. PW. 14 deposed that he was a rickshaw-driver of PW. 8 and carried voters under his direction, but PW. 8 did not name him at all. No names of voters said to have been carried in these rickshaws have been disclosed. Considering all these facts I am unable to accept this evidence and hold that the commission of this corrupt practice has been proved.

52. The last item of corrupt practice alleged is under sub. sec. (6) of sec. 123 regarding incurring or authorising of expenditure in contravention of sec. 77 of the R. P. Act. Sec. 77 provides that—(1) every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive; (2) the account shall contain such particulars, as may be prescribed; and (3) the total of the said expenditure shall not exceed such amount as may be prescribed. Rule 90 of the conduct of Election Rules 1961 provides that for election in a Parliamentary constituency in any State the total of the expenditure under sec. 77 should not exceed Rs. 25,000/-. The account of election expenses lodged by the respondent No. 1 with the Returning Officer under Sec. 78 of the R.P. Act on 26th March 1963 shows that he spent a total sum of Rs. 12,102.30 nP. (Ex. 7). Certain vouchers were also enclosed with the account. One of the items of expenses represented purchase of petrol spread over the months of January and February, 1962 and the total expenditure under this item was Rs. 7,556.97 nP. covered by two vouchers dated 2nd February 1962 and 24th March 1962 for Rs. 1,843.47 nP. and Rs. 5,713.50 nP. respectively obtained from H. P. Ghose & Sons, Petrol Dealers, Samastipur. The petitioner's case is that the amount spent on petrol was much more and that two payments of Rs. 6,000/- dated 29th January 1962 and Rs. 8,000/- dated 2nd February 1962 made to the said petrol dealers had not been included in the account. It is said that two cheques for the said amounts bearing the respective dates were drawn by Shri P. P. Singh, election agent of respondent No. 1, on the Central Bank of India, Samastipur Branch, in favour of Ramakanta Misra who made the payments, after cashing the cheques, to R. P. Ghosh, proprietor of H. P. Ghose & Sons. As already stated, no particulars regarding this charge of corrupt practice had been mentioned in the election petition and these items were for the first time disclosed in a new annexure F introduced by the amendment. The two cheques [Exs. 8 and 8(a)] have been produced by the Central Bank, Samastipur Branch, and these as also the extracts from the Ledger produced by the Bank show that the amounts of these cheques were paid to Ramakanta Misra in whose favour they were drawn on the respective dates. The petitioner has examined one witness PW. 105 Mahendra Narayan Chowdhuri who has stated that he had been to the Bank on these two dates, viz., 29th January 1962 and 2nd February 1962, to cash two cheques of Rs. 200/- each bearing the same dates and drawn in his favour by the petitioner and that while he was in the bank waiting to cash his cheques he saw Ramakanta Misra cash the two cheques of Rs. 6,000/- and Rs. 8,000/- on the respective dates and pay the amounts then and there to R. P. Ghose. These two cheques of Rs. 200/- each have been produced by the bank [Exs. 10 and 10(a)] and the copies of the Ledger show that they were cashed by Mahendra Narayan Chowdhuri. P. P. Singh alias Banwari Babu has admitted the two cheques of Rs. 6,000/- and Rs. 8,000/- but denied that these cheques were drawn for payment to R. P. Ghose for petrol. According to him, Ramakanta brought the amounts of the cheques and paid the same to him, Ramakanta Misra who is RW. 11 has admitted the cashing of these cheques and said that he made over the amounts to Banwari Babu at his residence. He denied having paid these sums to R. P. Ghose. R. P. Ghose is dead and so could not be examined by the either party. But the petitioner summoned H. P. Ghose & Sons and called for their account books and in obedience to this summons an employee of the firm came to court with the account books on 29th May 1964. The learned Advocate for the petitioner, however, declined to examine him. The fact that the account books, though produced, were not utilised by the petitioner will give rise to a presumption that they would not have supported his case. On 2nd February 1962 this firm had received a payment of Rs. 1,843.47 nP. from Shri P. P. Singh, according to the voucher enclosed with the account of election expenses, and this payment was in full satisfaction of a bill submitted by the firm on 1st February 1962. If the firm had actually received a payment of Rs. 8,000/- on 2nd February 1962 it is not clear why it would not have issued a voucher for that amount. The representative of the firm was called with its account books but he was not examined and questioned on this point. The sum of Rs. 1,843.47 nP. was paid in cash, as recited in the voucher, and it is not possible to conceive that two cash payments were made on the same date to the same firm on the same account. It would be more reasonable to presume on the other hand that the sum of Rs. 1,843.47 nP. was paid out of the proceeds of the cheque for Rs. 8,000/-. Since the voucher recites that the payment of Rs. 1,843.47 nP. was in

full satisfaction of a bill dated 1st February 1962, it is also reasonable to presume that this bill covered petrol supplied during the previous month and it is not possible to believe that a sum of Rs. 6,000/- would have been due to the firm on 29th January 1962, apart from this bill. If a payment of Rs. 6,000/- had been made on that date, on such bill could have been submitted only three days later. It has been suggested that this method of payment was adopted because the payment were intended to be kept secret and not to be included in the account of election expenses. But the second voucher dated 24th March 1962 shows that the sum of Rs. 5,713:50 nP. was also paid in cash and, in any case, such suggestion renders the story given by PW. 105 quite improbable. A payment intended to be kept secret would have been made either in the house of P. P. Singh or in that of R. P. Ghose and not in a public place like a bank in the presence of outsiders to whom the proprietor of the firm must be well-known. PW. 105 was admittedly a canvasser for the petitioner during the election and had been staying at Samastipur which is 16 miles off from his home for this purpose. He is thus neither an independent nor a disinterested witness entitled to more credit than Banwari Babu and Ramakanta Misra and the circumstances discussed above also militate against his story. I cannot therefore believe it. I find therefore that these items of expenditure have not been proved.

53. The next item of election expenses alleged to have been excluded from the account is the cost of maintaining election offices in certain villages enumerated in item (j) of the amended annexure F including food charges of the workers estimated at Rs. 10,000/- and their travelling allowances at the rate of Rs. 5/- per day per head—estimated at Rs. 75,000/-. Eight witnesses have been examined to show that allowances at this rate were paid to the respondent no. 1's workers. They are PWs. 101, 102, 103, 104, 106, 110, 112 and 116. PW. 101 says that the respondent No. 1 had an election office at village Sahit of which Tripit Singh was in-charge and that in that office 50 workers were maintained for three weeks and given allowances at this rate. None of the workers was, however, named by him. He did not keep any note of the payments and it is not clear from his statement that he actually saw any payment. RW 59 Tripit Singh has denied his story and two other witnesses from Sahit—RWs. 36 and 38—have also denied that the respondent no. 1 had any election office at Sahit to which workers were attached. His solitary evidence cannot be believed in the face of such denials. The same is the case with PW. 104 who has said that there was another election office at Ujairpur in charge of Ram Udgar where 40 workers were maintained for three weeks and paid Rs. 5/- each per day. He does not belong to the village but lives five miles off. He also could not name any worker and admitted that he did not see any payment to any worker. He was a worker of the petitioner during the election. RWs. 47 and 48 from Ujairpur have denied that there was any election office there or that any allowance was paid to workers. I cannot therefore accept his evidence. PW. 102 gave evidence that there was an election office of the respondent No. 1 at Deo Narain Shah's *gaddi* at Dalsingsarai where 70 or 80 workers were employed for five weeks and paid @ Rs. 5/- per head per day and that Sitaram Pankaj was in charge of the office. This was corroborated by PWs. 103, 110, 112 and 116. None of them, however, named any worker or proved any payment to any particular worker on any particular date or could give any idea of the total amount paid to the workers. It is not even clear that any of them actually saw any payment. Their evidence is altogether vague and indefinite and cannot therefore be relied upon. Both Deo Narain Shah (RW 60) and Sitaram Pankaj (RW. 65) have denied that any election office was maintained at Dalsingsarai or that any payment was made to the workers and Banwari Babu has also denied it. According to the respondent No. 1's witnesses, the workers all rendered honorary service. It may be that sometimes the workers were fed and RW. 10 has stated that the workers attached to the Samastipur election office used to get their food from the office. But there were only 25 or 30 workers attached to this office and the petitioner's witnesses have not indicated that there were more. In fact the petitioner has given no evidence about this office at all. Even if no account was kept of the expenses incurred for feeding these workers and the amount was not disclosed in the account of election expenses, that would not constitute corrupt practice without proof that the amount prescribed under Rule 90 had been exceeded thereby. The High Court of Patna has held in the case of Chandra Sekhar Singh Vs. Sarjoo Prasad Singh, reported in A.I.R. 1961 Patna 189, that only if a candidate's election expenditure exceeds the maximum amount in violation of sub-sec. (3) of sec. 77, he will be guilty of having resorted to a corrupt practice and that mere omission of certain items in the account of expenditure is not a corrupt practice, even though it could be shown that the omission was intentional. Thus in order to establish the commission of a corrupt practice under sub-sec. (6) of Sec. 123 it will not be sufficient to prove that certain items of expenses incurred

in connection with the election had not been included in the account of election expenses; it will also have to be proved that the total of these items of expenses, when added to the amount shown in the said account, will exceed the maximum. Such proof is lacking in this case. The cost of feeding 25 or 30 workers for a month or so in this election office could not have been much as the total amount of food charges at all the election offices numbering nine has been estimated in annexure F at Rs. 10,000/-. But the existence of no other election office with workers attached has been proved and even the addition of Rs. 10,000/- to the amount shown in the account of election expenses would not exceed the maximum. I find accordingly that no corrupt practice under sub-sec. (6) of Sec. 123 has been committed in respect of this item.

54. Finally it was alleged that certain telephone bills had not been included in the account of election expenses. In this connection a bill was called from the telephone authorities which related to Trunk calls from telephone no. 98 Samastipur standing in the name of 'Hon'ble Minister, Parliamentary Affairs, New Delhi' and amounted to Rs. 972/- (Ex. 12). In the account of election expenses a sum of Rs. 300/- has been included as representing the probable trunk call charges, the bill therefor not having been received. PW. 122, the head clerk of the Accounts Department of Telephone Revenue, Patna who produced this bill stated that the amount had not been realised. It is quite possible that this bill which is dated 19th March 1962 had not been received before the lodging of the account of election expenses on 26th March 1962. Banwari Babu has admitted that this telephone was installed at the election office at Samastipur and was used for election purposes and said that as no bill was received an approximate amount was mentioned in the account of election expenses. The omission of the amount of this bill in the said account was not therefore intentional and is easily explained. Reference has been made to another telephone at the house of Thakur Prasad Sarma where the respondent no. 1 had been staying at the time of election. This was telephone no. 12 standing in the name of Thakur Prasad. It has not been proved, however, that trunk calls made from this telephone were for the purposes of the election. Banwari Babu has no doubt said that his father used to make trunk calls from this telephone but it cannot be presumed therefrom that all such trunk calls were for election purposes. The respondent no. 1, as a Minister of the Central Government staying away from the capital at that time, must be presumed to have had occasions to make several trunk calls for official business and other purposes also. He has denied that he himself made any trunk call for election propaganda. The trunk call charges in respect of this telephone amounted to Rs. 360.20 nP., in January and Rs. 976.65 nP. in Feb. 1962, according to Exs. 13 and 13(a), extracts from the register of trunk call bills produced by PW. 122 which also show that a sum of Rs. 390.15 nP. was due for trunk calls from telephone no. 98 in Jan. 1962, Ex. 13(b). Even if it be assumed that all these trunk calls were for election purposes, the total of these amounts together with Rs. 972/- added to the amount shown in the account of election expenses, would not exceed the maximum and, therefore, on the authority of the decision of Patna High Court referred to above no corrupt practice under sub-sec. (6) of sec. 123 can be said to have been committed. This disposes of issue no. 3 as no proof was given of any corrupt practice committed under sub-sec. (7) of Sec. 123.

55. Issue No. 4.—This issue is covered by my findings above. The total of the expenditure incurred and authorised by the respondent no. 1 or his election agent in connection with the election did not exceed the prescribed amount.

56. Issue No. 5.—This issue was not pressed and no infringement of the provisions of the Constitution or non-compliance with any of the sections of the Representation of People Act, 1951 was given in evidence.

57. Issue No. 6.—In view of the findings above the election is not liable to be set aside and the petitioner cannot be declared elected and is not entitled to any relief.

HENCE ORDERED

That the election petition be dismissed with costs which in view of the protracted hearing are assessed at Rs. 2,000/- to be paid by the petitioner to the respon-

dent no. 1. In view of the order passed in para 11 of the judgment the petitioner should also pay the costs of respondent no. 5 which I assess at Rs. 50/-.

(Sd.) P. K. SARKAR,

11-1-65

Member,

Typed to my dictation and corrected by me.

Election Tribunal, Patna.

(Sd.) P. K. Sarkar.

[No. 82/294/62.]

By Order,

PRAKASH NARAIN, Secy.

MINISTRY OF LAW

New Delhi, the 16th February 1965

S.O. 657.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that all contracts and other instruments required to be made in the exercise of the executive power of the Union, in connection with the purchase of animals from non-official suppliers in Italy and France, for the Indian Army during the period February, 1965 to June, 1965, shall be executed on his behalf by the First Secretary (Commercial), Embassy of India, Rome and Paris respectively.

[No. F. 17(1)/65-J.]

G. K. PURANIK, Dy. Legal Adviser.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 17th February 1965

S.O. 658.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply to the Punjab Co-operative Bank Ltd., Jullundur City, in respect of the properties (comprising three houses and two shops) held by it at Rupar, District Ambala, Punjab, till the 3rd January, 1966.

[No. F. 15(1)-BC/64.]

B. J. HEERJEE, Under Secy.

(Department of Economic Affairs)

New Delhi, the 18th February 1965

S.O. 659.—Statement of the Affairs of the Reserve Bank of India Banking Department as on the 12th February, 1965.

LIABILITIES	Rs.	ASSETS	Rs.
Capital Paid up	5,00,00,000	Notes	7,70,37,000
		Rupee Coin	4,88,000
Reserve Fund	80,00,00,000	Small Coin	11,84,000
National Agricultural Credit		Bills Purchased and Discounted :—	
(Long Term Operations) Fund	86,00,00,000	(a) Internal . . . . .	..
		(b) External . . . . .	..
National Agricultural Credit (Stabilisation) Fund	9,00,00,000	(c) Government Treasury Bills	64,17,60,000
		Balances Held Abroad*	4,60,29,000
		Investments**	178,92,58,000
		Loans and Advances to :—	
National Industrial Credit		(i) Central Government . . . . .	..
(Long Term Operations) Fund	10,00,00,000	(ii) State Governments@	44,63,16,000
Deposits :—		Loans and Advances to :—	
		(i) Scheduled Banks†	95,10,71,000
		(ii) State Co-operative Banks††	154,01,26,000
(a) Government		(iii) Others	1,84,98,000
(i) Central Government	52,41,01,000	Loans, Advances and Investments from National Agricul-	
(ii) State Governments	17,65,26,000	tural Credit (Long Term Operations) Fund	

LIABILITIES		ASSETS	
	Rs.		Rs.
(b) Banks		(a) Loans and Advances to :—	
		(i) State Governments	27,75,15,000
		(ii) State Co-operative Banks	11,05,75,000
(i) Scheduled Banks	92,85,38,000	(iii) Central Land Mortgage Banks . . . . .	..
(ii) State Co-operative Banks	2,82,48,000	(b) Investment in Central Land Mortgage Bank Debentures	4,45,53,000
(iii) Other Banks	6,76,000	Loans and Advances from National Agricultural Credit (Stabilisation) Fund	
		Loans and Advances to State Co-operative Banks . . . . .	..
(c) Others	149,03,78,000	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund	
Bills Payable	53,13,99,000	(a) Loans and Advances to the Development Bank	50,18,000
		(b) Investment in bonds/debentures issued by the Development Bank . . . . .	..
Other Liabilities	69,05,25,000	Other Assets	32,09,63,000
	Rupees		Rupees
	627,03,91,000		627,03,91,000

*Includes Cash and Short-term Securities.

**Excluding Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 12,21,50,000 advanced to scheduled banks against usance bills under Section 17(4) (c) of the R. B. I. Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 17th day of February, 1965.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 12th day of February, 1965

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department.	7,70,37,000		Gold Coin and Bullion :—		
Notes in circulation	2597,91,41,000		(a) Held in India	128,42,72,000	..
Total Notes issued		2605,61,78,000	(b) Held outside India	..	..
			Foreign Securities	74,79,07,000	..
			TOTAL		203,21,79,000
			Rupee Coin		96,01,41,000
			Government of India Rupee Securities		2306,38,58,000
			Internal Bills of Exchange and other commercial paper	..	..
TOTAL—LIABILITIES	..	2605,61,78,000	TOTAL ASSETS		2605,61,78,000

Dated the 17th day of February, 1965.

P. C. BHATTACHARYA,
Governor.

No. F.3(2)-BC/65
R. K. SESHADRI,
Director (Banking)

(Department of Revenue)*New Delhi, the 19th February, 1965*

S.O. 660.—In pursuance of sub-rule (7) of rule 126HH, read with rule 126X, of the Defence of India Rules, 1962, the Central Government hereby directs that the following amendments shall be made in the Schedule to the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. F. 3/2/64-GC. II dated the 28th January, 1964, namely:—

In the said Schedule,—

- (1) columns 6, 10 and 11 shall be omitted;
- (2) columns 7 to 9 shall be re-numbered as columns 6 to 8;
- (3) the existing Note shall be numbered as Note 1 and after the Note as so numbered, the following Note shall be added, namely:—

“Note 2.—Gold as well as ornaments received by certified goldsmiths in accordance with the provisions of sub-rule (9) of rule 126HH shall also be accounted for in this. Where a certified goldsmith possessing equipment for drawing wires or for die-casting receives gold obtained by melting old ornaments, he shall specify the quantity of such gold in column 4”.

[No. F. 3/2/64-GC. II.]
B. D. PANDE, Addl. Secy.

(Department of Revenue)**CUSTOMS***New Delhi, the 27th February, 1965*

S.O. 661.—In exercise of the powers conferred by clause (a) of section 7 of the Customs Act, 1962 (52 of 1962) the Central Government hereby appoints Mandapam in the State of Madras as a customs port for the unloading of imported goods and the loading of export goods.

[No. 38/F. No. 14/1/65-L.C.II.]
G. P. DURAIRAJ, Dy. Secy.

CENTRAL EXCISE COLLECTORATE, ALLAHABAD*Allahabad, the 2nd February, 1965.*

S.O. 662.—In exercise of the powers conferred upon me under Rule 5 of the Central Excise Rules, 1944, I hereby delegate to all Assistant Collectors of Central Excise in Allahabad Collectorate, the power under Rule 56-A of the Central Excise Rules, 1944, to deal with applications within their respective jurisdiction. They should, however, endorse to this office a copy of the permission granted by them.

[No. 1/CE/65.]
B. D. DESHMUKH, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, BANGALORE**CENTRAL EXCISES***Bangalore, the 3rd February, 1965*

S.O. 663.—In exercise of the powers conferred upon me under Rule 5 of the Central Excise Rules, 1944, I hereby empower the Assistant Collectors of Central Excise, in this Collectorate to exercise within their respective jurisdiction, the powers vested in me under Rule 56A of Central Excise Rules, 1944.

[No. 1/65.]
V. PARTHASARATHY,
Collector.

MINISTRY OF STEEL & MINES**(Department of Mines & Metals)***New Delhi, the 17th February 1965*

S.O. 664.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed:

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan of the area covered by this notification can be inspected at the office of the National Coal Development Corporation Ltd., (Revenue Section), Darbhanga House, Ranchi or at the Office of the Deputy Commissioner, Dhanbad or at the office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the lands mentioned in the said Schedule shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Revenue Officer of the National Coal Development Corporation Ltd., Darbhanga House, Ranchi, within 90 days from the date of publication of this notification.

SCHEDULE

Drg. No. Rev/39/64
Dated 26.5.64.
(Showing lands notified
for prospecting)

MAHAL BLOCK
(Jharla Coalfield)

Serial No.	Village	Thana	Thana No.	District	Area	Remarks
1	Karadi	Chas	214	Dhanbad		Full
2	Kendulia	"	215	"		Part
3	Mahal	"	225	"		Part
4	Naradi	"	226	"		Full
5	Shibbabudi	"	227	"		Part
6	Kulshara	"	228	"		Full
7	Sitanala	"	229	"		Part
8	Banshara	"	233	"		Part
9	Tilatanr	"	216	"		Part
Total Area : 2120.00 acres (approximately) or 858.60 hectares (approximately).						

Boundary description:—

- A—B Line passes along the common boundary of villages Amlabad and Mahal, Amlabad & Karadi, Part common boundary of Amlabad & Kendulia and meets at point 'B'.
- B—C line passes through villages Kendulia, Tilatanr & Mahal (which is part common boundary of Parbatpur Block notified u/s 4(1) of Coal Act vide S.O. No. 42 dated 28th December, 1963, and meets at point 'C'.
- C—D line passes through village Mahal and meets at point 'D'.
- D—E line passes along the common boundary of villages Mahal & Manpur, Naradi & Manpur, Banshara & Manpur, Banshara & Chakparbad, part common boundary of villages Banshara & Pathargarha meets at point 'E'.
- E—F line passes through villages Banshara, Sitanala, Shibbabudi and along the part common boundary of villages Shibbabudi & Sitanala and meets at point 'F'.
- F—A line passes along the part right bank of Damodar River which is part common boundary of Thana Chas and Thana Jharla and meets at point 'A'.

[No. C2-20(23)/64.]

K. SUBRAHMANYAN, Under Secy.

MINISTRY OF INDUSTRY AND SUPPLY
(Department of Industry)

New Delhi, the 15th February, 1965

S.O. 665.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Patent Office (Class III) Recruitment Rules, 1962, namely:—

1. These rules may be called the Patent Office (Class III) Recruitment (Amendment) Rules, 1965.

2. In the Patent Office (Class III) Recruitment Rules, 1962, rule 4 shall be lettered as sub-rule (a) thereof and after sub-rule (a) as so lettered, the following sub-rule shall be inserted, namely:—

“(b) Notwithstanding anything contained in these rules, out of the total number of permanent vacancies in any of the said posts to be filled by direct recruitment, not more than one-third may be filled by transfer from among the employees of the State Governments concerned, in accordance with the general instructions issued by the Central Government from time to time.

NOTE.—For this purpose there should be a minimum of three permanent vacancies to be filled by direct recruitment during a particular calendar year.”

[No. F. 18(9)-TMP/64-II/P&D.]

New Delhi, the 16th February, 1965

S.O. 666.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Patent Office Class IV Recruitment Rules, 1958, namely:—

1. These rules may be called the Patent Office Class IV Recruitment (Amendment) Rules, 1965.

2. In the Patent Office Class IV Recruitment Rules, 1958, rule 2 shall be lettered as sub-rule (a) thereof and after sub-rule (a) as so lettered, the following sub-rule shall be inserted, namely:—

“(b) Notwithstanding anything contained in these rules out of the total number of permanent vacancies in any of the said posts to be filled by direct recruitment, not more than one-third may be filled by transfer from among the employees of the State Governments concerned, in accordance with the general instructions issued by the Central Government from time to time.

NOTE.—For this purpose there should be a minimum of three permanent vacancies to be filled by direct recruitment during a particular calendar year.”

[No. F. 18(9)-TMP/64. I/P&D.]

HARGUNDAS, Under Secy.

(Department of Industry)
Indian Standards Institution

New Delhi, the 16th February, 1965

S.O. 667—In pursuance of sub-regulation (i) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that thirteen licences, particulars of which are given in the Schedule hereto annexed, have been granted authorizing the licensees to use the Standard Mark.

THE SCHEDULE

Sl. No.	Licence No. and Date	Period of Validity		Name and Address of the Licensee	Article/Process covered by the Licence	Relevant Indian Standard
		From	To			
1	2	3	4	5	6	7
1.	CM/L-990 11-1-1965	16-1-65	15-1-66	M/s. Asiatic Plywood Industries, Barrackpore, Trunk Road, Panihati, 24-Parganas, having their Office at 30, Strand Road, Calcutta-1.	Tea-Chest Plywood Panels	IS: 10-1964 Specification for Plywood Tea-Chests (<i>Second Revision</i>)
2.	CM/L-991 21-1-1965	1-2-65	31-1-66	M/s. Assam Forest Products Pvt. Ltd., Makum Junction, Assam, having their Office at Dibrugarh (Assam).	Plywood for General Purposes	IS : 303-1960 Specification for Plywood for General Purposes
3.	CM/L-992 25-1-1965	1-2-65	31-1-66	M/s. Yawalkar Insecticides and Chemicals, 20 Industrial Estate Kamptee Road, Nagpur-4, having their Office at Khare Town, Dharampeth, Nagpur-1.	Formulations Based on Phenyl Mercury Acetate	IS : 2357-1963 Specification for Formulations Based on Phenyl Mercury Acetate.
4.	CM/L-993 25-1-1965	1-2-65	31-1-66	M/s. Indiklay, Plot No. 2, Udyog Nagar, Goregaon, Bombay-62.	BHC Dusting Powders	IS : 561-1962 Specification for BHC Dusting Powders.
5.	CM/L-994 25-1-1965	1-2-65	31-1-66	M/s. All India Medical Corpn., Simpoli Road, Borivli West, Bombay-66, having their Office at 185, Princes Street, Bombay-2.	DDT Dusting Powders	IS : 564-1961 Specification for DDT Dusting Powders.

1	2	3	4	5	6	7
6	CM/L-995 25-1-1965	1-2-65	31-1-66	M/s. All India Medical Corpn., Simpoli Road, Borivli West, Bombay-66, having their office at 185, Princess Street, Bombay-2	Endrin Emulsifiable Con- centrates	IS : 1310-1958 Specification for Endrin Emulsifiable Con- centrates
7	CM/L-996 25-1-1965	1-2-65	31-1-66	M/s. All India Medical Corpn., Simpoli Road, Borivli West, Bombay-66, having their office at 185, Princes Street, Bom- bay-2	Copper Oxychloride Water Dispersible Powder Concen- trates	IS : 1507-1959 Specification for Copper Oxychloride Water Dispersible Powder Con- centrates
8	CM/L-997 25-1-1965	1-2-65	31-1-66	The Omega Insulated Cable Co. India Ltd., Plot Nos. 16 and 17 Industrial Estate, Ambattur, Madras-53, having their office at 122/2, Mount Road, Madras-6	(i) PVC Insulated Cables, Unsheathed with Copper Conductor, 650 Volts Grade (ii) PVC Insulated Cables, Unsheathed with Aluminium Conductor, 250 Volts Grade	IS : 694 (Part I)-1964 Specifi- cation for PVC Insulated Cables (For Voltages up to 1100V) Part I with Copper Conductors (Revised) IS : 694 (Part II) 1964 Specification for PVC Insulated Cables (For Vol- tages upto 1100 V) Part II with Aluminium Con- ductors (Revised)
9	CM/L-998 27-1-1965	16-2-65	15-2-66	M/s. M. L. Day & Co., 28 B.T. Road, Cossipore, Calcutta-2, having their office at 57-B, Chittaranjan Avenue, Cal- cutta-12	Steel Drums, 20 Litres Capa- city, Grade B2 (Ungalvanized)	IS : 2552-1963 Specification for Steel Drums (Galvanized and Ungalvanized)
10	CM/L-999 29-1-1965	1-2-65	31-1-66	M/s. Rajasthan Industrial and Scientific Corporation, 39, Industrial Area, Jhotwara, (Jaipur West), Jaipur having their office at Rahul Meters, Chaura Rasta, Jaipur.	Water Meters (Domestic Type) 15 mm Size	IS : 779-1961 Specification for Water Meters (Domestic Type)
11	CM/L-1000 29-1-1965	1-3-65	28-2-66	M/s. Moti Electric Industries, 15-A Najaigarh Road, New Delhi-15.	(i) PVC Insulated & PVC Shea- thed Cables with Copper Conductor, 250 Volts Grade (ii) PVC Insulated Cables, Unsheathed with Copper Conductor, 650 Volts Grade	IS : 694 (Part I) 1964 Specifica- tion for PVC Insulated Cables (For Voltages upto 1100 Volts) with Copper Conductors (Revised)

12	CM/L-1001 29-1-1965	1-3-65	28-2-66	M/s. Nielcon Private Ltd., 37-F, Parel Road, Cross Lane, Chinchpokli, Bom- bay-12	Fractional Horse Power Three- Phase Squirrel Cage In- duction Motors	IS : 996-1959 Specification for Small AC and Universal Electric Motors with Class 'A' Insulation
13	CM/L-1002 29-1-1965	1-3-65	28-2-66	M/s. Electronic & Industrial Instruments Co. Pvt. Ltd., B-17, Industrial Estate, Sanatnagar, Hyderabad-18	Laboratory Deflection pH Meters	IS : 2711-1964 Specification for Laboratory Deflection pH Meters

[No. MD/33:16]

S.O. 668.—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1961, 1962 and 1964, the Indian Standards Institution hereby notifies that forty-nine licences, particulars of which are given in the Schedule hereto annexed, have been renewed.

THE SCHEDULE

Serial No.	Licence No. and date	Period of validity		Name and address of the licensee	Article(s) covered by the licence	Relevant Indian Standard
		From	To			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CM/L-44, 20-1-1958	1-2-65	31-1-66	M/s. Shalimar Tar Products (1935) Ltd., 6, Lyons Range, Calcutta.	Naphthalene	IS : 539-1955 Specification for Naphthalene.
2.	CM/L-47 20-1-1958	1-2-65	31-1-66	M/s. Hunsur Plywood Works, P.O. Hunsur (Mysore State).	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests. (Revised).
3.	CM/L-50 20-1-1958	1-2-65	31-1-66	M/s. East India Plywood Co. Pvt. Ltd., 2, Netaji Subhas Road, Calcutta.	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
4.	CM/L-51 20-1-1958	1-2-65	31-1-66	M/s. Jaypore Timber and Veneer Mills Pvt. Ltd., Dibrugarh, Distt. Lakhimpur (Upper Assam).	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
5.	CM/L-52 20-1-1958	1-2-65	31-1-66	The Malabar Plywood Works, Cheruvannur, Feroke (Kerala State).	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
6.	CM/L-53 20-1-1958	1-2-65	31-1-66	M/s. South India Plywood Industries, Market Landing, Kottayam (Kerala State).	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
7.	CM/L-56 20-1-1958	1-2-65	31-1-66	The Great Indian Plywood Manufacturing Co., 76, Jessore Road, Dum Dum, Calcutta-28.	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
8.	CM/L-57 20-1-1958	1-2-65	31-1-66	M/s. Assam Valley Plywood Pvt. Ltd., 67B, Netaji Subhas Road, Calcutta-1.	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
9.	CM/L-58 20-1-1958	1-2-65	31-1-66	M/s. Assam Bengal Veneer Industries Pvt. Ltd., 9, Clive Row, Calcutta-1. (Factory—Calcutta).	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).

10.	CM/L-59 20-1-1958	1-2-65	31-1-66	M/s. Assam Bengal Veneer Industries Pvt. Ltd., 9, Clive Row, Calcutta-1 (Factory—Oodiabari).	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chest (Revised).
11.	CM/L-60 20-1-1958	1-2-65	31-1-66	The Standard Furniture Co. Ltd. Kallai, Kozhikode-3 (Kerala State).	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
12.	CM/L-85 24-4-1958	9-1-65	31-12-66	M/s. Hindusthan Timber Industries, 41, Chaulpatty Road, Beliaghata Calcutta-10.	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
13.	CM/L-113 9-1-1959	1-2-65	31-1-66	M/s. Phoenix Plywood, Kottayam, Kerala.	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
14.	CM/L-114 9-1-1959	1-2-65	31-1-66	M/s. Venus Plywood Company, Nemmara P.O., Kerala.	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests (Revised).
15.	CM/L-146 28-9-1959	5-1-65	31-1-66	M/s. Bharat Pulverising Mills Pvt. Ltd., 38-A, Sayani Road, Bombay-28.	BHC Water Dispersible Powder Concentrates	IS : 562-1962 Specification for BHC Water Dispersible Powder Concentrates (Second Revision).
16.	CM/L-156 20-11-1959	1-2-65	31-1-66	M/s. Sulekha Works Limited, Sulekha Park, Jadavpur, Calcutta-32.	Ferro-Gallo Tannate Fountain Pen Ink (0.1 per cent iron content).	IS : 220-1959 Specification for Ferro-Gallo Tannate Fountain Pen Ink (0.1 percent Iron Content) (Revised).
17.	CM/L-158 15-1-1960	1-2-65	31-1-66	The Aluminium Industries Limited, Hirakud, Sambalpur Dt. (Orissa State).	Steel Cored and Plain Stranded Aluminium Conductors of all types and sizes specified in IS : 398-1961.	IS : 398-1961 Specification for Hard-Drawn Stranded Aluminium & Steel Cored Aluminium Conductors for Overhead Power Transmission Purposes (Revised).
18.	CM/L-160 15-1-1960	1-2-65	31-1-66	The Indian Iron and Steel Co. Ltd., 12, Mission Row, Calcutta-1.	Flushing Cisterns	IS : 774-1960 Specification for flushing cisterns for Water Closets and Urinals (Valveless Syphonic Type) (Revised).
19.	CM/L-161 15-1-1960	1-2-65	31-1-66	M/s. Patiala Biscuits Manufacturers Private Ltd., Rajpura. (Punjab).	Biscuits (Excluding Wafer Biscuits)	IS : 1011-1957 Specification for Biscuits (Excluding Wafer Biscuits).
20.	CM/L-215 29-8-1960	15-1-65	15-1-66	M/s. Tata-Fison Industries Ltd., Pandit Motilal Nehru Road, Jamuna Kinara, Agra (U.P.).	BHC Dusting Powders	IS : 561-1962 Specification for BHC Dusting Powders (Second Revision).

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21	CM/L-226 16-9-1960	1-2-65	31-1-66	M/s. Sulekha Works Limited, Sulekha Park, Jadavpur, Calcutta-32.	Dye-Based Fountain Pen Inks, Blue, Green, and Red.	IS:1221-1957 Specification Dye Based Fountain Pen Inks (Blue, Green, Violet, Black & Red).
22	CM/L-233 18-10-1960	25-1-65	15-1-66	M/s. Great Eastern Cutlery Works, 20, Strand Road, Calcutta.	Pruning Knives, Hooked & Curved	IS : 619-1961 Specification for Pruning Knives, Hooked and Curved. (Revised).
23	CM/L-256, 29-12-1960	15-1-65	15-1-66	M/s. Tata-Fison Industries Ltd., Palluruthy, Cochin-5.	Copper Oxychloride Dusting Powders	IS : 1506-1959 Specification for Copper Oxychloride Dusting Powders.
24	CM/L-257 29-12-1960	15-1-65	15-1-66	M/s. Tata-Fison Industries Ltd., Palluruthy, Cochin-5.	Copper Oxychloride Water Dispersible Powder Concentrates.	IS : 1507-1959 Specification for Copper Oxychloride Water Dispersible Powder Concentrates.
25	CM/L-259, 13-1-1961	15-1-65	15-1-66	M/s. G.M.C. Himco Limited, Kamlanagar, Subzimandi, Delhi-6.	18-Litre Square Tins	IS : 916-1958 Specification for 18-Litre Square Tins.
26	CM/L-269, 30-1-1961	1-2-65	31-1-66	M/s. Flintrock Products Private Ltd., Belvedere Road, Mazgaon, Bombay-10.	DDT Water Dispersible Powder Concentrates	IS : 565-1961 Specification for DDT Water Dispersible Powder Concentrates (Revised).
27	CM/L-372, 11-1-1962	1-2-65	31-1-66	M/s. Tata-Fison Industries Ltd., Pandit Motilal Nehru Road, Jamna Kinara, Agra.	BHC Emulsifiable Concentrates	IS : 632-1958 Specification for BHC Emulsifiable Concentrates. (Revised).
28	CM/L-374, 11-1-1962	1-2-65	31-1-66	M/s. Abrol Engineering Co., Circular Road, Kapurthala.	Metal Clad Switches (Capacity 15, 30 and 60 amperes, DP, TP, 250 Volts and 500 Volts).	IS : 1567-1960 Specification for Metal Clad Switches (Current Rating not exceeding 100 amperes).
29	CM/L-376, 16-1-1962	1-2-65	31-1-66	M/s. Surma Valley Sawmills Private Ltd., P.O. Bhanga-bazar, Assam.	Tea-Chest Plywood Panels	IS : 10-1953 Specification for Plywood Tea-Chests. (Revised).
30	CM/L-478, 29-11-1962	9-1-65	31-12-65	M/s. Shalimar Tar Products (1935) Limited, P-46, Hide Extension Road, Kidderpore, Calcutta-23 having their Office at 6 Lyons Range, Calcutta -1.	Hot Applied Sealing Compounds for Joints in Concrete.	IS : 1834-1961 Specification for Hot Applied Sealing Compounds for Joints in Concrete.

31	CM/L-479 29-11-1962	9-1-65	31-12-65	M/s. Shalimar Tar Products (1935) Limited, P-46 Hide Extension Road, Kidderpore, Calcutta-23 having their Office at 6, Lyons Range, Calcutta-1.	Preformed Fillers for Expansion in Joint in Concrete Non-extruding and Resilient Type (Bitumen Impregnated Fibre).	IS : 1838-1961 Specification for Preformed Fillers for Expansion Joint in Concrete Non-extruding and Resilient Type (Bitumen-Impregnated Fibre).
32	CM/L-481 29-11-1962	16-1-65	15-1-66	Government Central Lock Factory, (Directorate of Industries, Government of West Bengal), Bargachia, Distt. Howrah.	Brass Padlocks M Type Brass Padlocks	IS : 275-1961 (Specification for Padlocks (<i>Second Revision</i>)). IS : 1018-1961 Specification for M Type Brass Padlocks. (<i>Revised</i>). IS : 789-1955 Specification for Ink, Drawing Waterproof Black.
33	CM/L-487 26-12-1962	15-1-65	15-1-66	M/s. Sulekha Works Ltd., Sulekha Park, Jadavpur, Calcutta-32.	Ink, Drawing, Waterproof, Black	IS : 325-1961 Specification for Three-Phase Induction Motors (<i>Second Revision</i>).
34	CM/L-489 26-12-1962	15-1-65	15-1-66	M/s. Bhangar Bros. and Co. Private Ltd., 142/48 Ghodbunder Road, Jogeshwari Bombay-60, having their Registered Office at Anand House, 158, Kalbadevi Road, Bombay-2.	Three-Phase Induction Motors upto 3 HP only	IS : 996-1959 Specification for Small AC and Universal Electric Motors with Class 'A' Insulation.
35	CM/L-490 26-12-1962	15-1-65	15-1-66	M/s. Bhangar Bros. & Co. Private Ltd., 142/48, Ghodbunder Road, Jogeshwari, Bombay-60 having their Registered Office at Anand House, 158, Kalbadevi Road, Bombay-2.	Fractional Horse Power Electric Motors.	IS : 1567-1960 Specification for Metal Clad Switches (Current Rating not exceeding 100 amperes). IS : 55-1950 Specification for Ultramarine Blue for Paints.
36	CM/L-491 26-12-62	15-1-65	15-1-66	M/s. Ganapathy Engineering Manufacturers Private Ltd., Ganapathy, Coimbatore-6.	Metal Clad Switches 15 and 30 amperes of 250 Volts and 500 Volts Grade, and 60 and 100 amperes of 500 Volts Grade.	IS : 651-1962 Specification for Salt-Glazed Stoneware Pipes and Fittings.
37	CM/L-494 31-12-1962	15-1-65	15-1-66	M/s. C.M.C. (India), Survey No. 529, Near Electricity Sub-Station, Odhav Road, Ahmedabad-10.	Ultramarine Blue for Paints	
38	CM/L-495 31-12-1962	15-1-65	15-1-66	M/s. Feroke Tile Works, Feroke (Kerala State).	Salt-Glazed Stoneware Pipes and Fittings of Diameter 100 mm, 150 mm, and 300 mm.	

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39	CM/L-496 9-1-1963	15-1-65	14-1-66	M/s. Sarvjit Electric Works, Rurka Road, Goraya (N. Rly.) (Distt. Jullundur).	Metal Clad Switches, 15 and 30 amperes of 250 & 500 volts Grade and 60 amp. of 500 Volts Grade	IS : 1567-1960 Specifica- tion for Metal Clad Swi- tches (Current Rating not exceeding 100 amperes).
40	CM/L-499 14-1-1963	1-2-65	31-1-66	M/s. Kolay Biscuits Co. Pvt. Ltd., 100-A, Charakdanga Road, Beliaghata, Calcutta-10.	Biscuits (Excluding Wafer Biscuits)	IS : 10-11-1957 Specifica- tion for Biscuits (Ex- cluding Wafer Biscuits).
41	CM/L-500 14-1-1963	1-2-65	31-1-66	The Aluminium Industries Ltd. No. 1, Ceramic Factory Road, Kundara.	PVC Cables only with Aluminium Conductors (250 and 650 Volts Grade).	IS : 694 (Part I)-1964 Spe- cification for PVC insu- lated Cables (For Volt- ages upto 1 100 V) with Copper Conductors (<i>Re- vised</i>). IS 694 (Part I D)-1964 Spe- cification for PVC In- sulated Cables (For Volt- ages up to 1 100 V) with Aluminium Con- ductors (<i>Revised</i>).
42	CM/L-501 23-1-1963	1-2-65	31-1-66	M/s. Tata-Fison Industries Ltd. 20, Howrah Road, Salkia, Cal- cutta having their Head Office at Union Bank Building, Dal- al Street, Fort, Bombay-1.	Endrin Emulsifiable Concentrates	IS : 1310-1958 Specifica- tion for Endrin Emulsi- fiable Concentrates.
43	CM/L-610 31-12-1963	1-2-65	31-1-66	M/s. Asian Cables Corporation Ltd., Kotakwadi, Pokhran Road, Post Box No. 11, Thana having their Registered Office at Navsari Building, 240 D, Naoraji Road, Fort, Bombay-1.	<div style="display: flex; justify-content: space-between;"> <div> Type Non-Flexible Cables </div> <div> Voltage Grade </div> <div> Conductor </div> </div> <div style="margin-top: 10px;"> (i) TRS (Tough Rubber Sheathed) . 250 } Copper & 660 } or Alumi- Volts } nium 250 volts } </div> <div style="margin-top: 10px;"> (ii) Flame Retarding . (iii) TRS with earth Con- tinuity Conductor . 250 volts Copper (iv) Braided and Com- pounded . 250 and Copper or 660Volts Aluminium (v) Weatherproof . 660 volts Aluminium (vi) Flame Retarding . 660 volts Aluminium </div>	IS : 694 (Part I)-1964 Spe- cification for PVC In- sulated Cables (For Voltages upto 1 100 V) with Copper Conductors (<i>Revised</i>). IS : 694 (Part II)-1964 Spe- cification for PVC In- sulated Cables (For Volt- ages upto 1 100 V) with Aluminium Conductors. (<i>Revised</i>).

Flexible Cables

- (vii) Tough Rubber Sheathed 660 volts Copper
Flexible Cords
 (viii) Twisted and Braided 250 volts }
 (ix) Workshop Type . 250 volts } Copper
 (x) Tough Rubber Sheathed. 250 volts }

44	CM/L-611, 31-12-1963	1-2-65	31-1-66	M/s. Parkash Pulverising Mills, Industrial Area, Alwar.	BHC Dusting Powders	IS : 561-1962 Specification for BHC Dusting Powders (<i>Second Revision</i>).
45	CM/L-612 31-12-1963	1-2-65	31-1-66	M/s. National Refinery Private Ltd., 87, Tardeo Road, Bombay-34.	Silver Solder	IS : 192-1956 Specification for Silver Solder Solder (<i>Revised</i>).
46	CM/L-613 31-12-1963	1-2-65	31-1-66	The National Rolling and Steel Ropes Limited, Shamnagar, 24 Parganas, West Bengal having their Registered Office at Nicco House, 1 and 2 Hare Street, Calcutta-1.	Steel Wire Ropes for Haulage Purposes in Mines	IS : 1856-1961 Specification for Steel Wire Ropes for Haulage purposes in Mines
47	CM/L-614 31-12-1963	1-2-65	31-1-66	M/s. Lloyd Bitumen Products, A5, A6, and A7, Bon-Hooghly Industrial Estate, B.T. Road, Baranagore having their office at 4A Royd Street, Calcutta-16.	Preformed Fillers for Expansion Joint in Concrete Non-Extruding and Resilient Type (Bitumen-Impregnated Fibre).	IS : 1838-1961 Specification for Preformed Fillers for Expansion Joint in Concrete Non-Extruding and Resilient Type (Bitumen - Impregnated Fibre).
48	CM/L-615 31-12-1963	1-2-65	31-1-66	M/s. Bayer (India) Ltd., Palkhiwadi, Off. Cadell Road, Bombay-28 having their Office at Nagin Mahal, 5th Floor, 82, Veer Nariman Road, Fort, Bombay-1.	Parathion Emulsifiable Concentrates	IS : 2129-1962 Specification for Parathion Emulsifiable Concentrates.
49	CM/L-616 7-1-1964	1-2-65	31-1-66	M/s. Jaipur Metals and Electricals Ltd., Near Railway Station, Jaipur (Rajasthan).	Hard-Drawn Stranded Aluminium and Steel-Cored Aluminium Conductors for Overhead Power Transmission Purposes.	IS : 398-1961 Specification for Hard-Drawn Stranded Aluminium and Steel Cored Aluminium Conductors for Overhead Power Transmission Purposes (<i>Revised</i>).

New Delhi, the 17th February 1965

S.O. 669 In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1961, 1962 and 1964, the Indian Standards Institution hereby notifies that the marking fee per unit for Steel Products, details of which are given in the Schedule hereto annexed, have been determined and the fee(s) shall come into force with effect from 1 April 1965.

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and title of relevant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
1	Structural Steel (Standard Quality)	IS:226-1962 Specification for Structural Steel (Standard Quality) (<i>Third Revision</i>)	One Tonne	25 Paise
2	Galvanized Steel Sheets (Plain and Corrugated)	IS:277-1962 Specification for Galvanized Steel Sheets (Plain and Corrugated) (<i>Revised</i>)	Do.	Do.
3	Mild Steel and Medium Tensile Steel Bars and Hard-Drawn Steel Wire for Concrete Reinforcement.	IS:432-1960 Specification for Mild Steel and Medium Tensile Steel Bars and Hard-Drawn Steel Wire for Concrete Reinforcement (<i>Revised</i>)	Do.	Do.
4	Cold Rolled Carbon Steel Sheets.	IS:513-1963 Specification for Cold Rolled Carbon Steel Sheets (<i>Revised</i>)	Do.	Do.
5	High Tensile Structural Steel	IS:961-1962 Specification for High Tensile Structural Steel (<i>Revised</i>).	Do.	Do.
6	Hot Rolled Carbon Steel Sheet and Strip.	IS:1079-1963 Specification for Hot Rolled Carbon Steel Sheet and Strip (<i>Revised</i>)	Do.	Do.
7	Rivet Bars for Structural Purposes.	IS:1148-1964 Specification for Rivet Bars for Structural Purposes (<i>Revised</i>).	Do.	Do.
8	High Tensile Rivet Bars for Structural Purposes.	IS:1149-1964 Specification for High Tensile Rivet Bars for Structural Purposes (<i>Revised</i>).	Do.	Do.
9	Structural Steel (Ordinary Quality).	IS:1977-1962 Specification for Structural Steel (Ordinary Quality).	Do.	Do.
10	Structural Steel (Fusion Welding Quality)	IS:2062-1962 Specification for Structural Steel (Fusion Welding Quality).	Do.	Do.

NOTE :—The above rate of marking fee will be applicable only in case of primary manufacturers of steel and re-rollers on par with them.

[No. MD/18:2]

New Delhi, the 18th February 1965

S.O. 670.—In licence No. CM/L-489 dated 28 December 1962 held by M/s Bhangar Bros. & Co. Pvt. Ltd., Bombay the details of which are published under S.O. 609 in the Gazette of India, Part II, Sub-section 3(ii) dated 22 February 1964, the list of articles has been revised as follows with effect from 15 February 1965:

Three-Phase Induction Motors up to 5 HP only.

[No. MD/12:913.]

D. V. KARMARKAR, Jt. Director (Marks)

MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

New Delhi, the 10th February 1965

S.O. 671.—In pursuance of clause (1) of article 239 of the Constitution of India the President hereby directs that the Chief Commissioner of Delhi shall, subject to the control of the President and until further orders, exercise, in the Union Territory of Delhi, the powers of the State Government under section 34 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960).

[No. 9-24/62-LD.]

K. C. SARKAR, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 16th February, 1965.

S.O. 672.—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the medical qualification "M.D." granted by the University of British Columbia, Canada, shall be a recognised medical qualification for the purposes of that Act.

[No. F. 32-15/64-MPT.]

New Delhi, the 20th February 1965

S.O. 673.—Whereas Miss R. Eliason, Nursing Superintendent, Baptist Christian Hospital, P.O. Tezpur, District Darang (Assam) has been elected by the Assam Nurses, Midwives and Health Visitors Council to be a member of the Indian Nursing Council under clause (a) of sub-section (1) of section 3 of the Indian Nursing Council Act, 1947 (48 of 1947);

And whereas, Miss N. Dass, Nursing Superintendent, V. J. Hospital, Amritsar (Punjab) has been elected by the Punjab Nurses Registration Council to be a member of the Indian Nursing Council under clause (a) of sub-section (1) of section 3 of the said Act;

And whereas Dr. T. V. Sivanandam, MBBS., MLC., 'Chellam House', 122, West Sambandam Road, Coimbatore, has been elected by the Medical Council of India to be a member of the Indian Nursing Council under clause (d) of sub-section (1) of section 3 of the said Act, with effect from the 6th February, 1965;

And whereas Dr. P. R. Trivedi, Dallo building, Ellis Bridge, Ahmedabad-6 (Gujarat), has been elected by the Central Council of the Indian Medical Association to be a member of the Indian Nursing Council under clause (e) of sub-section (1) of section 3 of the said Act with effect from the 1st December, 1963;

And whereas, Miss A. Cherian, Nursing Officer, Directorate General of Health Services, New Delhi, has been re-elected with effect from the 1st December, 1963 by the Council of the Trained Nurses Association of India to be a member of the Indian Nursing Council under clause (f) of Sub-section (1) of section 3 of the said Act;

Now, therefore, in pursuance of the provisions of sub-section (1) of section 3 of the said Act, the Central Government hereby directs that Miss A. Cherian, Nursing Officer, Directorate General of Health Services, New Delhi, shall continue to be a member of the Indian Nursing Council constituted by the notification of the Government of India in the Ministry of Health No. F. 27-57/57-MII(B), dated the 1st December, 1958, with effect from the 1st December, 1963 and makes the following further amendments in the notification of the Government of India in the Ministry of Health No. F. 27-57/57-MII(B) dated the 1st December, 1958:—

(i) under the heading "Elected under clause (a) of Sub-section (1) of Section 3";

(1) for the entry against serial No. 1, the following entry shall be substituted, namely:—

"Miss R. Eliason, Nursing Superintendent, Baptist Christian Hospital, P.O. Tezpur, District Darang (Assam)",

(2) for the entry against Serial No. 5, the following entry shall be substituted, namely:—

“Miss N. Dass, Nursing Superintendent, V. J. Hospital, Amritsar (Punjab)”;

(ii) under the heading “Elected under clause (d) of sub-section (1) of Section 3” for the entry against serial No. 1, the following entry shall be substituted, namely:—

“Dr. T. V. Sivanandam, MBBS, MLC., Chellam House, 122, West Sambandan Road, Colmbatore.”;

(iii) under the heading “Elected under clause (e) of sub-section (II) of Section 3, for the entry against serial No. 1, the following entry shall be substituted, namely:—

“Dr. P. R. Tirvedi, Dallo building, Ellis Bridge, Ahmedabad-6 (Gujarat)”.

[No. F. 27-47/63-MPT(Pt. II)(A).]

S.O. 674.—In pursuance of the provisions of Section 3 of the Indian Nursing Council Act (48 of 1947), the Central Government hereby directs that the Superintendent of Nursing Services (by whatever name called) of Gujarat State specified in sub-clause (ii) of clause (m) of sub-section (1) of Section 3 of the said Act shall be *ex-officio* member of the Indian Nursing Council.

Now therefore, in pursuance of the provisions of sub-section (1) of Section 3 of the said Act the Central Government hereby makes the following further amendment in the Notification of the Government of India in the Ministry of Health No. 27-57/57-MII(B) dated the 1st December, 1958, namely:—

In the said notification under the heading “*Ex-officio* members under clause (m) of sub-section (1) of Section 3” after the existing entries the following entry shall be inserted, namely:—

“7. Superintendent of Nursing Services, Gujarat”.

[No. F. 27-47/63-MPT(B).]

ORDERS

New Delhi, the 19th February 1965

S.O. 675.—Whereas the Government of India in the Ministry of Health has, by notification No. 32-15/64-MPT, dated the 16th February, 1965, made, in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification “M.D.” granted by the University of British Columbia, Canada, for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government hereby specifies the period of two years with effect from the date of this order or so long as Dr. David M. Kennedy who possesses the said qualification, continues to work in the Ratlam Mission Hospital Masihi Chikitsalayia, Ratlam, (Madhya Pradesh) to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. David M. Kennedy shall be limited.

[No. F. 32-15/64-MPT.]

New Delhi, the 20th February 1965

S.O. 676.—Whereas the Government of India in the Ministry of Health has, by notification No. 16-1/62-MI dated the 26th July, 1962, made, in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification M.D., C.M. awarded by the University of McGill Montreal, Canada, for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies a further period of two years with effect from the 26th July, 1964 or so long as Dr. J. A. Vandrick who possesses the said

qualification, continues to work in the Star of Hope Hospital, Canadian Baptist Mission, Aklividu, West Godavari District, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. J. A. Vandrick shall be limited.

[No. F. 32-64/64-MPT.]

B. B. L. BHARADWAJ, Under Secy.

MINISTRY OF TRANSPORT

(Transport Wing)

MERCHANT SHIPPING

New Delhi, the 20th February 1965

S.O. 677.—In exercise of the powers conferred by sub-section (3) of section 114 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government hereby fixes a sum of Rupees One Hundred as the amount for the bond to be given in respect of each seaman by a Master of a ship other than an Indian ship for the purposes of the said section.

[No. 19-MT(1)/65.]

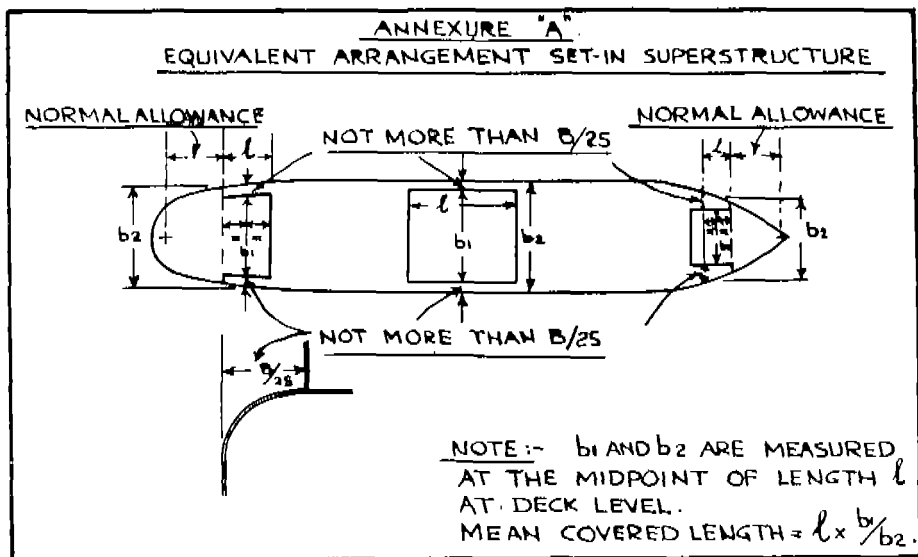
S.O. 678.—Whereas the Government of India has ratified the International Loadline Convention 1930;

And whereas Article 18 of the said Convention permits the acceptance of any other equivalent arrangement in substitution of a particular fitting or appliance adopted under the Loadline Rules;

And whereas the Government of India is satisfied that the proposed "set in" superstructures will reduce concentration of stresses in sheer strakes of some ships, and the seaworthiness of such ships will not be adversely affected; and that the fitting is at least as effective as that required by the Indian Merchant Shipping (Load Line) Rules, 1934;

Now therefore in exercise of the powers conferred by rule 109 of the Indian Merchant Shipping (Loadline) Rules, 1934, the Government of India hereby accepts the "set in" superstructures or other modified form of superstructures as equivalent to a superstructure under Rule 1 of the Annexure to the said Convention subject to the following:—

- (i) the transverse amount of "set in" on each side of any ship having a rounded gunwale shall be limited to the point where the gunwale begins to curve down, or as near thereto as constructional arrangements allow and shall not exceed at any point a distance equal to $B/25$ where B is the moulded breadth of the ship;
- (ii) the transverse amount of "set in" on each side of any ship having the gunwale square to ship side shall not exceed at any point a distance equal to the width of the stringer bar plus 8 inches;
- (iii) in the computation of freeboard, the mean covered length of any "set in" superstructure shall be reduced by the ratio of the breadth of that "set in" superstructure to the breadth of the vessel at the mid-length of that superstructure as shown on the accompanying diagram marked annexure "A".



[No. F. 42-MA(7)/62.]

D. S. NIM, Dy. Secy.

DEPARTMENT OF COMMUNICATIONS
(P. & T. Board)

New Delhi, the 19th February, 1965

S.O. 679.—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following further amendments in the notification of the Government of India in the late Ministry of Communications (Posts and Telegraphs) No. S.R.O. 620, dated the 28th February, 1957, namely:—

In the Schedule to the said notification in Part II, General Central Service, Class III, under the heading "Office of the Director General, Posts and Telegraphs", in column (1),

- (a) the entry "Librarian" and the corresponding entries thereto in columns (2) to (5) shall be omitted;
- (b) against the entry "Mechanics", for the existing entries in columns (2) to (5), the following entries shall be substituted.

"(2)"	(3)	(4)	(5)
Dy. Director of Telecommunications Research.	Dy. Director of Telecommunications Research.	All	Director of Telecommunications Research.
	Assistant Director of Telecommunications Research.	(i) to (iii)	Dy. Director of Telecommunications Research"

[No. 44/9/64-Disc.]

D. K. AGARWAL,
Assistant Director General (SEA).

MINISTRY OF EDUCATION

(ARCHAEOLOGY).

New Delhi, the 17th February, 1965.

S.O. 680.—Whereas the Central Government is of opinion that the ancient monument specified in the Schedule attached hereto is of national importance.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby gives notice of its intention to declare the said ancient monument to be of national importance.

Any objection made within two months after the issue of this notification by any person interested in the said ancient monument will be considered by the Central Government.

SCHEDULE

Serial No.	State	District	Tehsil	Locality	Name of monument	Revenue plot number to be included under protection	Area	Boundaries	Ownership	Remarks
1	2	3	4	5	6	7	8	9	10	11
1	Jammu & Kashmir	Baramulla	Uri	Buniyar	Ancient temple together with adjacent land comprised in survey plot Nos. 275, 260 and 262.	Survey plot Nos. 275, 260 and 262.	8 Kanals and 8 Marlas.	North : Survey plot No. 261. East: Survey plot Nos. 261 and 274. South: Survey plot Nos. 276 and 277. West : Survey plot Nos. 259, 294 and 279.	Temple property.	Road (Survey plot No. 43) is passing through survey plot No. 275 and survey plot Nos. 260 and 262.

[No. F. 4-2/65-C1.]

S. J. NARSIAN,
Assistant Educational Adviser.

MINISTRY OF COMMERCE

(RUBBER CONTROL)

New Delhi, the 19th February, 1965.

S.O. 681.—The Central Government hereby notifies that:—

(a) the persons specified in items (1) to (4) below have been elected as members of the Rubber Board for a period of three years with effect from the 31st December, 1964 under clauses (b) and (c) of sub-section (3) of section 4 of the Rubber Act, 1947 (24 of 1947), read with sub-rule (2) and (3) of rule 3 of the Rubber Rules, 1955, and

(b) the persons specified in items (5) to (7) have been nominated by the Central Government as members of the Rubber Board for a period of three years with effect from the 19th February, 1965 under clause (d) of sub-section (3) of section 4 of the Rubber Act, 1947 (24 of 1947), to represent the interests shown against their names, namely:—

(1) Shri Mathew Abraham, Mahendragiri Estate, Nagercoil (Madras State).

Elected by the large growers in the State of Madras.

(2) Shri P. K. Ali, Managing Director, Ummaya Greens (Private) Ltd., Palaparamba P.O., Tellicherry (Kerala State).

(3) Shri George John, Ancheril, Kottayam (Kerala State)

Elected by the large growers in the State of Kerala.

(4) Shri Michael A. Kallivayalil, Maruthi Estate, Peruvanthanam, Mundakayam (Kerala State).

(5) Shri B. K. Nair, I.N.T.U.C., Office Vandiperiyar (Kerala State).

Nominated by the Central Government to represent labour.

(6) Shri K. Karunakaran, I.N.T.U.C. Office, Trichur (Kerala State).

(7) Shri P. C. Baby, Neelamma Putheneedu, Karavallur, P.O. Punalur (Kerala State).

[No. F. 15(3) Plant (B) /64.]

B. KRISHNAMURTHY, Under Secy.

(Office of the Textile Commissioner)

Bombay, the 14th January, 1965

S.O. 682.—In exercise of the powers conferred on me by clauses 4, 14A and 17 of the Cotton Control Order, 1955, and of all other powers enabling me in this behalf, I hereby make the following Order.

1. Every 'A' and 'B' class cotton licence holder not being a manufacturer or a bank shall furnish to the Office of the Textile Commissioner, Bombay, in the form given in Annexure 'A' hereto, a fortnightly statement showing the position therein as on the 15th and the last date of each month, so as to reach this Office within the dates specified below:

(i) The first statement showing the cotton position as on 31st December, 1964, should reach not later than 22nd January, 1965.

(ii) The second statement for the fortnight ending 15th January, 1965, should reach not later than 31st January, 1965.

(iii) The third statement for the fortnight ending 31st January, 1965, should reach not later than 7th February, 1965.

- (iv) For each fortnight thereafter, the statements should reach within 7 days from the last date of the fortnight to which the statement relates.

2. (a) No person shall hereafter enter into a contract to sell any Indian cotton to a manufacturer unless the manufacturer certifies in a form which may be prescribed by the Indian Cotton Mills' Federation that the purchase is within the limits indicated by the Indian Cotton Mills' Federation.

(b) No person shall hereafter deliver to a manufacturer any Indian cotton against the contracts already entered into prior to this Order unless the manufacturer certifies in a form which may be prescribed by the Indian Cotton Mills' Federation that such purchase is within the limits indicated by the Indian Cotton Mills' Federation.

(c) Every manufacturer shall issue on or before 22nd January, 1965, a certificate in a Form which may be prescribed by the Indian Cotton Mills' Federation, to the seller in respect of each contract entered into prior to this Order that the quantity purchased under the said Contract is within the limits indicated by the Indian Cotton Mills' Federation.

ANNEXURE 'A'

Full name and address of the licence holder.....
Licence No. A/B

Instructions :—

1. The quantity of cotton to be shown below shall include both the loose ginned cotton and pressed cotton and indicated in metric bales of 180 kgs.
2. The return should reach the Research Officer, Economics Branch (Cotton Cell), Office of the Textile Commissioner, Bombay No. 1, not later than the dates specified in the Notification.

PART-I

in respect of total stocks of Indian Cotton as on.....

Full description of cotton	Quantity of Indian cotton lying			Location
	Unsold	Sold to a manu- facturer but not delivered	Delivered to a manufacturer but stored on his behalf	
1	2	3	4	5

PART II

Details in respect of stocks of cotton sold to a manufacturer but not delivered as on.....

Full description of cotton	Quantity	Lot No.	Press Marks	Press Running Numbers	Name of the manufacturer	Sale Price	Location of stock	*Remarks
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PART III

Return in respect of forward sales as on

Full description of cotton	Quantity	Name of the manufacturer	Sale price	Delivery month	*Remarks
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I do hereby declare that I have compared the above particulars with the records and books of my office and that they are in so far as I can ascertain accurate.

Signature of the licence holder.

*State whether the certificate in respect of I. C. M. F's permitted limit is obtained from the mills.

New Delhi, the 18th February, 1965.

Sd./- R. DORAISWAMY,
Textile Commissioner.

[No. 1(10)/65 Cotton/1.]
B. K. VARMA, Under Secy.

(Office of the Jt. Chief Controller of Imports and Exports)

(Central Licensing Area)

ORDERS

New Delhi, the 1st January, 1965

S.O. 683.—Whereas M/s. Guru Nanak Metal Engg. Works, 82-B, Industrial Estate, Ludhiana or any bank or any other person have not come forward furnishing sufficient cause, against Notice No. JCC.I/I(CLA)/627/63/308, dated 18th June 1964 proposing to cancel licences Nos. (1) P/SS/1523687/C/XX/18/C-D/17-18, dated 31st March 1964 for Graphite Crucibles for Rs. 375 (2) A 571340/62, dated 21st February 1963 for Asbestos Insulation Board for Rs. 1407 (3) A 569996/62, dated 18th March 1963 for German Silver Scrap for Rs. 1,650 (4) P/SS/1532047/C/XX/18/C-D/17-18, dated 15th April 1964 for German Silver Scrap for Rs. 2,570 (5) P/SS/1532337/C/XX/18/C-D/17-18, dated 18th April, 1964 for Acrylic Plastic sheets for Rs. 1,700 (6) A 570967/62, dated 26th February 1963 for Acrylic Plastic Sheets for Rs. 2,188 (7) A 570963/62, dated 26th February 1963, for Polyethelene Moulding Powder of High Density for Rs. 875 (8) A 573493/62, dated 29th January 1963 for Tapper Roller Bearings for Rs. 700 (9) A 573496/62, dated 29th January 1963, for Ball Bearings for Rs. 1,406 (10) P/SS/1532841/C/XX/C-D/18, dated 5th May 1964 for Tapper Roller Bearings for Rs. 125 (11) P/SS/1532511/C/XX/18/C-D/18, dated 19th April 1964, for Raw material for Gang Condensors for Rs. 2,500 (12) D 2464905, dated 13th February 1963, for Rotary Switches with Porcelain Base for Hot plates for Rs. 1,875 (13) A 574761/62, dated 3rd December 1962 for Thermostat Electric control for Rs. 2,255 (14) A 569884/62, dated 3rd April 1963, for Jewel Lights for Rs. 702 (15) A 574760/62, dated 31st December 1962 for Heating Elements for Rs. 2,250 (16) A 574787/62, dated 21st April 1963, for Radio Parts for Rs. 3,562 (17) A 574735/62, dated 2nd January 1963, for Nicrome Wire for Rs. 585 (18) P/SS/1532514/C/XX/18/C-D/18, dated 19th April 1964 for Insulation Tester etc. for Rs. 1,100 (19) P/SS/1532290/C/XX/18/C-D/18, dated 18th April, 1964 for Nicrome Wire for Rs. 1,053 (20) P/SS/1523974/C/XX/18/C-D/17-18, dated 31st March 1964 for Thermostat Electric Control for Rs. 4,250 (21) P/SS/1532153/C/XX/18/C-D/18, dated 10th April 1964, for Jewel Lights for Rs. 702 (22) P/SS/1532510/C/XX/18/C-D/17-18, dated 19th April 1964 for raw material for band Switches for Rs. 3,000 (23) P/SS/1532293/C/XX/18/C-D/18 for Radio Parts for Rs. 6,750, dated 18th April 1964 (24) A 571212/62/D/AU5 Annual, dated 25th February 1963 for Rs. 567 for the Import of Adjustable Hand Reamers granted to said M/s. Guru Nanak Metal Engg. Works, 82, Industrial Estate, Ludhiana by the Dy./Joint Chief Controller of Imports and Exports (Central Licensing Area) Janpath Barracks 'B' New Delhi Government of India in the Ministry of Commerce in exercise of the powers conferred by the Clause 9 of the Import (Control) Order 1955, hereby cancel the said licences as mentioned above issued to M/s. Guru Nanak Metal Engg. Works, 82-B, Industrial Estate, Ludhiana.

[No. JCC.I/I(CLA)/627/63/3664.]

New Delhi, the 7th January, 1965

S.O. 684.—Whereas M/s. Gold Stone Industries, 78-F and 79-F, Kamla Nagar, Subzi Mandi, Delhi or any Bank or any other person have not come forward furnishing sufficient cause, against Notice No. JCC. I/I(CLA)/46/64/3200 dated 1st December 1964 proposing to cancel licence No. A 570814/62/D/AU VI/Annual dated 18th March 1963 for import of Polyethylene Moulding Powder for Rs. 1026/- granted to said M/s. Gold Stone Industries, 78-F and 79-F, Kamla Nagar, Subzi-mandi, Delhi by the Dy./Joint Chief Controller of Imports & Exports, (Central Licensing Area) Janpath Barracks 'B' New Delhi, Govt. of India in the Ministry of Commerce in exercise of the Powers conferred by the Clause 9 of the Import (Control) Order 1955, hereby cancel the said licence No. A 570814/62/D/AU-VI/Annual dated 16th March 1963, issued to M/s. Gold Stone Industries, 78-F and 79-F, Kamla Nagar, Subzimandi, Delhi.

[No. JCC.I/I(CLA)/46/64/3821(A).]

New Delhi, the 18th January, 1965

S.O. 685.—Whereas M/s. Guru Nanak Metal Engg. Works, 82, Industrial Estate, Ludhiana or any bank or any other person have not come forward furnishing sufficient cause, against Notice No. JCC.I/I(CLA)/627/63/2959, dated 16th November 1964, proposing to cancel licence No. A 571212/62/D/AU5/Annual, dated 25th February 1963 for import of Adjustable Hand Reamers for Rs. 567

granted to said M/s. Guru Nanak Metal Engg. Works, 82, Industrial Estate, Ludhiana by the Dy. Chief Controller of Imports and Exports (Central Licensing Area) Janpath Barracks 'B' New Delhi Government of India in the Ministry of Commerce in exercise of the powers conferred by the clause 9 of the Import (Control) Order 1955, hereby cancel the said licence No. A 571212/62/D/AU5/Annual, dated 25th February 1963 Rs. 567 for import of Adjustable Hand Reamers issued to M/s. Guru Nanak Metal Engg. Works, 82, Industrial Estate, Ludhiana.

[No. JCC.I/I(CLA)/627/63/3997.]

S. K. SEN,

Jt. Chief Controller of Imports and Exports.

(Office of the Deputy Chief Controller of Imports & Exports)

ORDER

Ernakulam, the 20th January 1965

S.O. 686.—Whereas M/s. M. Paul Varghese & Co. (P) Ltd., Banerji Road, Ernakulam-1. or any Bank or any other person have not come forward furnishing sufficient cause against Notice No. 157-IV/1/2-63/EPS dated the 23rd October 1964 proposing to cancel licence No. P/EP/2245647/C/XX/18/C/E/18 dated 28th March 1964 for Rs. 2,50,000/- only for import of High Quality Art Paper from General Area, granted by the Deputy Chief Controller of Imports & Exports, Ernakulam, to the said M/s. M. Paul Varghese & Co. (P) Ltd., Banerji Road Ernakulam.

The Government of India, in the Ministry of Commerce, in exercise of the powers conferred by Clause 9 of the Imports (Control) Order 1955, hereby cancel the said licence No. P/EP/2245647/C/XX/18/C/E/18 dated 28th March 1964 issued to M/s. M. Paul Varghese & Co. (P) Ltd., Banerji Road, Ernakulam.

[No. 157-IV/1/2-63/EPS.]

P. MADHAVAN NAIR,

Dy. Chief Controller of Imports and Exports.

MINISTRY OF WORKS & HOUSING

New Delhi, the 18th February 1965

S.O. 687.—It is hereby notified that, in pursuance of clause (d) of sub-section (1) read with sub-section (4) of section 4 of the Rajghat Samadhi Act, 1951 (41 of 1951), Shri Mohammad Yusuf, a member of the Lok Sabha, has been elected as a member of the Rajghat Samadhi Committee in place of Her Highness Maharani Vijaya Raje Scindia of Gwalior.

[No. 19/2/64-WI.]

S.O. 688.—In exercise of the powers conferred by sub-sections (1) and (2) of section 4 of the Rajghat Samadhi Act, 1951 (41 of 1951), the Central Government hereby nominates Shri V. Vishwanathan, Chief Commissioner, Delhi and Shri R. F. Isar, Joint Secretary, Ministry of Works and Housing, as official members of the Rajghat Samadhi Committee, in place of Sarvashri Dharma Vira and Prem Krishen respectively and also appoints Shri V. Vishwanathan, Chief Commissioner, Delhi, as the Chairman of the said Committee.

The Central Government hereby makes the following further amendments in the notification of the Government of India in the late Ministry of Works, Housing and Supply No. 19/2/62-WI dated the 22nd August, 1962, namely:—

In the said notification,

- (i) for the name of "Shri Dharma Vira" in the two places where it occurs, the following shall be substituted, namely:—

"Shri V. Vishwanathan";

- (ii) for item 2, the following item shall be substituted, namely:—
 "2. Shri R. F. Isar, Joint Secretary, Ministry of Works and Housing";
- (iii) for the entry "Her Highness Maharani Vijaya Raje Scindia of Gwalior", the following shall be substituted, namely:—
 "Shri Mohammad Yusuf".

[No. 19/2/64-WI.]

S. CHAUDHURI, Dy. Secy.

New Delhi, the 20th February 1965

S.O. 689.—In exercise of the powers conferred by sub-section (2) of section 1 of the Slum Areas (Improvement and Clearance) Amendment Act, 1964 (43 of 1964), the Central Government hereby appoints the 27th day of February, 1965 as the date on which the said Act shall come into force.

[No. 11/2/65-HI.]

V. K. HARURAY, Under Secy.

MINISTRY OF REHABILITATION**(Office of the Chief Settlement Commissioner)***New Delhi, the 17th February 1965*

S.O. 690.—In exercise of the powers conferred on the Chief Settlement Commissioner by Sub-Section (2) of Section 10 of the Displaced Persons (Claims) Supplementary Act, 1954 (XII of 1954), he hereby delegates to S/Shri N. P. Jaisinghani, Assistant Settlement Commissioner, Indore & Patna region and J. D. Jain, Competent Officer, Delhi with immediate effect the following powers of the Chief Settlement Commissioner:—

1. Powers to call for the record of any case decided by the Settlement Officer and pass order in the case under proviso to Sub-Section (3) of Section 4 of the said Act.
2. Special powers of revision under Section 5 of the said Act in respect of cases decided under the Displaced Persons (Claims) Act, 1950 (44 of 1950).

[No. 11-A(3)AI-60/ARG.]

G. D. KSHETRAPAL,
 Chief Settlement Commissioner.

MINISTRY OF INFORMATION AND BROADCASTING*New Delhi, the 12th February 1965*

S.O. 691.—In exercise of the powers conferred by Section 3(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule 2 of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government after consultation with the Central Board of Film Censors, hereby appoints Shri Ashis Barman as a member of the Advisory Panel of the said Board at Calcutta with immediate effect.

[No. 11/3/62-FC.]

CORRIGENDUM*New Delhi, the 12th February 1965*

S.O. 692.—In the Notification of the Ministry of Information and Broadcasting No. S.O. 126, dated the 26th December, 1964, published at page 143 in Part II—Section 3—Sub-Section (ii) of the Gazette of India Extraordinary dated the 9th January 1965, in the last line of Notification for "10th September, 1964" please read "26th December, 1964".

[No. 11(4)/63-FC.]

R. B. SINHA, Under Secy.

DEPARTMENT OF SOCIAL SECURITY

New Delhi, the 18th February 1965

S.O. 693.—In pursuance of the provisions contained in sub-section (1) of section 17A of the Employees' Provident Funds Act, 1952, the Central Government hereby specifies a period of three months as the period within which the amount of accumulations to the credit in the Fund under the said Act of an employee employed in an establishment to which the aforesaid Act applies, leaves his employment and obtains re-employment in another establishment to which the same does not apply shall, if the employee so desires and the rules in relation to that provident fund permit such transfer, be transferred to the credit of his account in the provident fund of the establishment in which he is re-employed.

[No. 13/17/64/PF-II.]

S. A. AHMAD, Dy. Secy.

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 17th February 1965

S.O. 694.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Babisole Colliery Post Office Ondal, District Burdwan, and their workmen which was received by the Central Government on the 12th February, 1965.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 45 of 1964

PARTIES:

Employers in relation to the Babisole Colliery, and
Their workmen.

PRESENT:

Shri L. P. Dave—*Presiding Officer.*

APPEARANCES:

On behalf of employers.—Shri K. N. Choudhury, Manager, Babisole Colliery.

On behalf of workmen.—Shri K. Roy, Vice-President, Colliery Mazdoor Sabha, Asansol.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

The Government of India, Ministry of Labour & Employment, by their order No. 6/58/64-LRII, dated 25th July, 1964, have referred the industrial dispute existing between the employers in relation to the Babisole Colliery and their workmen in respect of the question whether the action of the management in stopping Sarvashri Garib Paswan and Bandhu Louri, Quarry trammers, from work with effect from the 3rd June, 1964 and Shri Akkal Mondal, quarry trammer, with effect from the 31st May, 1964 is justified and if not, to what relief they are entitled for adjudication to this Tribunal.

2. After the parties had filed their written statements, the matter was fixed for hearing and was adjourned more than once for different reasons. Ultimately when the matter came up for hearing before me today, the parties, after some discussions, settled the matter amicably and filed a memorandum of settlement, copy appended herewith.

3. The dispute relates to three quarry trammers who are said to have been stopped from work by the management. Under the terms of compromise, all the three workmen are to be reinstated; they are to be given jobs first either as quarry loaders or miners, but they would be taken as trammers whenever there are vacancies. The management have also agreed to pay them three months' salary as *ex-gratia* payment. In my opinion, the compromise is fair and reasonable. I accept it.

I therefore pass an Award in terms of the compromise.

8th February, 1965.

L. P. DAVE,
Presiding Officer.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 45 OF 1964

Employers in relation to Babisole Colliery.

AND

Their workmen.

The parties discussed the matters and came to the following agreement:—

1. That the three workmen namely Shri Akkal Mondal, Shri Garil Paswan, and Shri Bandhu Bauri who were working as trammers will be reinstated and the management will take them back within 23rd February. They will be taken back as soon as they report for duty.
2. They will be given jobs of either quarry loaders or miners at first but whenever there is vacancy for trammers, they will be taken. The seniority of service of other trammers will be taken into consideration.
3. The period of unemployment will be treated as period of leave without pay and they will be paid salary of three months each as *ex-gratia*.

There will be no orders as to costs. The parties pray that an award may kindly be given to this effect.

K. Roy,
Vice President,
Colliery Mazdoor Sabha, Asansol.
Dated 8th February, 1965.

K. N. CHOUDHURY,
Manager,
Babisole Colliery,
8-2-1965.
[No. 6/58/64-LR.II.]

New Delhi, the 18th February 1965

S.O. 695.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act, from Sarvashri Seomari, M.C. Loader and others Jealgora Colliery Post Office Jealgora, which was received by the Central Government on the 11th February 1965.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

In the matter of a Complaint under Sec. 33A of the Industrial Disputes, Act, 1947 (XIV of 1947).

COMPLAINT No. 3 OF 1964

(Arising out of Reference No. 1 of 1964)

PARTIES:

1. Sri Seomari (E.B. No. 7528) M. C. Loader.
2. Sri Chhota Ramdeo (E.B. No. 12073) M. C. Loader.
3. Sri Mewa Lal (E.B. 12424) M. C. Loader.
4. Sri Jadunandar Rajbhar E.B. 12101 M. C. Loader.
5. Sri Ganesh E.B. 612175 M. C. Loader.
6. Sri Kuleshwar E.B. 15065 M. C. Loader.
7. Sri Deoraj E.B. 90324 M. C. Loader.
8. Sri Kallash E.B. 15070 M. C. Loader.
9. Sri Sagina E.B. 92342 M. C. Loader.
10. Sri Nibhul E.B. 7635 M. C. Loader.
11. Sri Ramchandra E.B. No. 7737 M. C. Loader.
12. Sri Jagardeo E.B. 12380 M. C. Loader.
13. Sri Surat E.B. 91600 M. C. Loader.
14. Sri Seopujan E.B. 7362 M. C. Loader.
15. Sri Manhoo E.B. 5893 M. C. Loader.
16. Sri Kishore E.B. 1398 M. C. Loader.

17. Sri Gobordhan E.B. 15607 Prop Mazdoor.
18. Sri Chanderdeo E.B. 5168 M. C. Loader.
19. Sri Bismath E.B. 5825 M. C. Loader.
20. Sri Bhiku E.B. 90013 M. C. Loader.
21. Sri Bipat E.B. 12411 M. C. Loader.
22. Sri Hetoo E.B. 12066 M. C. Loader.
23. Sri Rameshwar E.B. 15743 Loco Helper.

C/o.

Secretary, Khan Mazdoor Congress, P.O. Jharia, Dt. Dhanbad—Complainants.

Vs.

Employers in relation to Jealgora Colliery, M/s. East Indian Coal Co. Ltd.,
P.O. Jealgora—Opposite Party.

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L., Presiding Officer.

APPEARANCES:

For the Complainants—Sri B. Lal, Advocate, for complainants as Secretary,
Khan Mazdoor Congress.

For the Company Opposite Party—Sri J. N. P. Sahi, Assistant C.L.O.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 8th February, 1965

AWARD

Shri B. Lal, Advocate, for complainants as Secretary of the Union appears for complainants. Sri J. N. P. Sahi, Assistant Chief Labour Officer of the company appears for the opposite party. Copy of written statement made over by Shri Sahi to Sri Lal today in court. Shri Sahi applies for time. Sri Lal objects and presses for cost. Twenty complainants out of 23 are present. Subsequently, Shri Sahi raised preliminary objection to the maintainability of the complaint on the ground that these complainants were not 'workmen concerned' within Section 33(2) of the Industrial Disputes Act, 1947, in Reference No. 1 of 1964 in which this complaint had been filed and therefore on this preliminary ground the complaint should be dismissed. Realising this difficulty, Shri B. Lal, on behalf of the Union representing the workmen concerned filed a petition for permission to withdraw the complaint with liberty to move the Central Government for reference of the dispute under Section 10(1)(d) of the Industrial Disputes Act. In these circumstances, the complainants are permitted to withdraw the complaint.

The complaint is accordingly withdrawn. This is the award made in this case.

Sd./- RAJ KISHORE PRASAD,

Dhanbad, dated the 8th February, 1965.

Presiding Officer,

Central Govt. Industrial Tribunal, Dhanbad.

[No. 2/68/63-LR.II.]

New Delhi, the 19th February 1965

S.O. 696.—Whereas the Central Government is of opinion that an Industrial Dispute exists between the employers in relation to the Pakher Bauxite Mine of Messrs Aluminium Corporation of India Limited, Post Office Lohardaga, District Ranchi and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of the Pakher Bauxite Mine of Messrs. Aluminium Corporation of India Limited, Post Office Lohardaga in dismissing Shri S. K. Zaboורuddin a piece rated workman is justified? If not, to what relief is the workman entitled?

[No. 24/6/65-LR-I.]

New Delhi, the 20th February 1965

S.O. 697.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Rajanka Limestone Quarries of Messrs. Associated Cement Companies Limited, Jhinkpani and their workmen which was received by the Central Government on the 8th February, 1965.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

In the matter of a Reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 (XIV of 47).

REFERENCE No. 69 OF 1964

PARTIES:

Employers in relation to the Rajanka Limestone Quarries of Messrs. Associated Cement Companies Limited, Jhinkpani

AND

Their workmen.

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L.,—*Presiding Officer*.

APPEARANCES:

For the Employers:—Shri Ranen Roy, Advocate, Patna High Court, Shri B. N. Jha, Personnel & Welfare Officer.

For the Workmen:—Sarvashree U. P. Sinha, Vice President, J. N. Thakur, Vice President and A. K. Roy, General Secretary; Chaibasa Cement Workers' Union.

STATE: Bihar

INDUSTRY: Limestone Quarry.

Dhanbad, dated the 2nd January, 1965

AWARD

Ministry of Labour and Employment, Government of India, by its Order No. 22/22/64-LR. II dated the 22nd June, 1964 referred under Section 10(1)(d) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the Act') to this Tribunal for adjudication, an industrial dispute existing between the employers in relation to the Rajanka Limestone Quarries of Messrs. Associated Cement Companies Limited, Jhinkpani, and their workmen, in respect of the matters specified below:

SCHEDULE

“(a) Whether the management of Associated Cement Companies Limited, Jhinkpani, was justified in terminating the services of the following 26 workmen of Rajanka Limestone Quarry from the 24th February 1964? If not, to what relief are they entitled?

S. No.	Name	Ticket No.
1.	Shri Kandey Hansda	T. 149
2.	Shri Dasru Naik	T. 150
3.	Shri Abhiram Purty	T. 151
4.	Shri Jagram	T. 152
5.	Shri Turam Munda	T. 153
6.	Shri Mangal Singh	T. 154

S. No.	Name	Ticket No.
7.	Shri Singrai Hessa	T. 155
8.	Shri Nitu Hessa	T. 156
9.	Shri Bhaskoro Gowala	T. 157
10.	Shri Jagarnath	T. 158
11.	Shri Parkrai Deogam	T. 166
12.	Shri Mangru Khandait	T. 166
13.	Shri Nawru Balmuchu	T. 167
14.	Shri Udai Balmuchu	T. 168
15.	Shri Selai Balmuchu	T. 169
16.	Shri Pachai	T. 170
17.	Shri Suraj Khandait	T. 171
18.	Shri Pandu Khandait	T. 172
19.	Shri Dimbi Hessa	T. 173
20.	Shri Radha Krishna Hesda	T. 174
21.	Shri Nazir Nagi	T. 175
22.	Shri Kurpa Hesda	T. 176
23.	Shri Gulla Hesda	T. 178
24.	Shri Arjoon Das	T. 179
25.	Shri Golaram	T. 180
26.	Shri Sanatan Das	T. 181

- (b) Whether these twenty-six workmen were rightly designated as temporary by the management in accordance with the condition laid down in item 3(III) of the Standing Orders of Rajanka Limestone Quarry? If not, to what relief were they entitled?"

2. The company filed its written statement, which it called counter-statement, on 30th September 1964. The Chaibasa Cement Workers' Union, Jhinkpani, through its General Secretary, Sri A. K. Roy, submitted a statement of claim, on behalf of the concerned workmen, on 5th October 1964. The company, thereafter, on 18th November 1964 filed a rejoinder to the statement of claim of the Union.

3. The main case of the Union was that the 26 Quarry workers, whose services were terminated with effect from 24th February 1964 by the management, were employed by the management for raising limestone and for removal of overburden which is a continuous and permanent operation in the quarries and they were employed by the company on 25th May 1963 but their services were extended from time to time till they were finally terminated on 24th February 1964; that these concerned workmen were engaged in the mineral raising of the limestone, which is about 35 per cent of the total daily raising of limestone, which is bound to continue so long as the whole raising operation of the company is not mechanised, and, in these circumstances, the company could have easily absorbed these 26 workers also after 24th February 1964 in view of the capacity of its Factory but the same was not done and the company dispensed with the services of these workers in order to debar them from becoming permanent labourers as otherwise they would have been benefited by annual provident fund, etc., as permanent employees; that the raising of limestone and the removal of overburden, for which these concerned workmen were engaged, being a continuous feature connected with the manufacturing process of the company there was no likelihood of the closure of the mineral operation of the raising of limestone on 24th February 1964, but the management deliberately terminated the services of these workers *malafide*.

4. The defence of the company was that it no doubt discharged these 26 workers and that they were engaged in the removal of overburden and other works connected with this and at times also engaged in raising of limestone but this did not mean that they were required after 24th February 1962 and as these workers had become surplus, with the completion of the work of the overburden and removal of overburden, the permanent workers of D Block had to be provided and so these temporary workers were dispensed with, and as such they were not entitled to any relief.

5. No witness was examined by any of the two parties, but both the parties filed documents in support of their respective cases. Documents of both parties were marked, with mutual consent, as exhibits and, accordingly, documents filed by the company were marked Exhibits M to M. 11 and documents filed by the workmen were marked Exhibits W to W. 75.

6. On 25th November 1964 when the case was taken up at the request of the parties at Patna, Sri Ranen Roy, Advocate of the Patna High Court, and Sri B. Jha, Personnel Officer and Welfare Officer of the Company, appeared for the company, Sarvashri A. K. Roy, General Secretary of the Union and Satish Roy, Member of the Union, appeared for the workmen concerned. Sri Ranen Roy finished his arguments on 25th November 1964 and at the request of the workmen's representatives their argument was fixed for next date, that is, on 26th November 1964, but, unfortunately, the General Secretary of the Union, Sri A. K. Roy, was taken ill, and, therefore, on his petition for time the case was adjourned on 26th November 1964 and, ultimately, it was fixed for hearing on 30th December 1964 at Dhanbad with the consent of both parties.

Preliminary Objections

7. Sri Ranen Roy took a preliminary objection to the maintainability of the Reference itself on the ground that the Reference under Section 10(1)(d) of the Act by the Central Government was invalid in as much as the State Government was the 'appropriate Government' under Section 2(a)(i) of the Act as admittedly the Company's Factory is situated at Chalbasa in the State of Bihar, and, therefore, the quarry also, even if it is a mine, should be deemed to be under the State Government, and, as such the State Government was the 'appropriate Government' to make the reference.

Sri Ranen Roy developed his argument by contending that the State Government was the 'Appropriate Government' under Section 2(a)(i) of the Act for two reasons: *First*, that a limestone quarry is not a mine within the meaning of Section 2(a)(i) of the Act, and, *Second*, that a quarry is not an independent concern but a department of the Factory.

Section 2(a) of the Act defines the expression 'appropriate Government' in these terms:

"2. (a) 'appropriate Government' means—

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government or by a railway company (or concerning any such controlled industry as may be specified in this behalf by the Central Government) or in relation to an industrial dispute concerning (a banking or an insurance company, a mine, an oil-field) or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the (State) Government;"

The question, therefore, is whether a limestone quarry is a 'mine' within the meaning of Section 2(a)(i) of the Act reproduced above. It was conceded by Sri Ranen Roy that a limestone quarry is a 'mine' under The Mines Act, 1952, (Act 35 of 1952). The word 'mine' has been defined in Section 2(j) of the Mines Act, 1952, and its material portion is as follows:

"2(j). 'mine' means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes...."

From the above definition of 'mine' as given in Section 2(j), 'mine' means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes what is specified in sub-sections (i) to (vi). The word 'Minerals' has been defined in Section 2(jj) in The Mines (Amendment) Act, 1959 wherein it has been added subsequently to the Mines Act, 1952 by the Mines (Amendment) Act 1959 (Act 62 of 1959). Section 2(jj) reads thus:

"2(jj). 'minerals' means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulicing, quarrying or by any other operation and includes mineral oils (which in turn include natural gas and petroleum);"

Section 2(i) of the Act of 1952 was also amended by the Mines (Amendment) Act, 1959 which came into force on 16th January 1960 by which a new Section 2(j) was

substituted for the old Section 2(j). The material portion of the newly substituted Section 2(j) of the Mines (Amendment) Act, 1959 is in these terms:

"2(j). 'mine' means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes....

(iv) all open cast workings;"

The expression "open cast working" has also been defined in Section 2(kk) by the Mines (Amendment) Act, 1959. It reads thus:

"2. (kk). 'open cast working' means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground".

Reading therefore, Section 2(j) (iv) along with Section 2(jj) and Section 2(kk) it is plain that a 'quarry' is a 'mine' within the meaning of Section 2(a)(i) of the Act.

8. On behalf of the workmen, reliance was placed on Item 8 'Limestone' under the Second Schedule to Section 9 of The Mines and Minerals (Regulation and Development) Act, 1957 (Act 67 of 1957), which deals with payment of royalties in respect of mining leases. Section 9(1) lays down that the holder of mining lease shall pay royalty in respect of any mineral removed by him from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral and Second Schedule Item 8 deals with 'Limestone'. This also, therefore, supports the contention of the workmen that 'limestone quarry' is a 'mine' within the meaning of section 2(a)(i) of the Act.

Reliance was also placed, on behalf of the workmen, on Section 2(18) of the Metalliferous Mines Regulations, 1961, which were made under Section 57 of the Mines Act, 1952 (Act 35 of 1952) by the Central Government. Regulation 2 contains definitions and it defines in Regulation 2(18) "metalliferous mine" which "includes every mine other than a coal or an oil mine." This also, therefore, supports the contention of the workmen that 'limestone quarry' is a 'mine' as envisaged by Section 2(a)(i) of the Act.

9. For the reasons given above, I am satisfied that there is no merit in the contention of Mr. Ranen Roy and, therefore, the first ground of his preliminary objection is over-ruled. I, therefore, hold that a limestone quarry is a 'mine' within the meaning of Section 2(a)(i) of the Act.

10. The second ground of Sri Ranen Roy, as indicated earlier, is that the Limestone Quarry is a department of the Cement Factory of the Company and not an independent concern and, as such, it is a part and parcel of the cement Factory itself and the Cement Factory being admittedly situated at Chaibasa within the jurisdiction of the State Government, which is the 'appropriate Government' in respect of the Factory, the quarry also, even if it is a mine, should be held to be under the State Government, and, therefore, on this ground also, the State Government should be held to be the 'appropriate Government' in respect of this quarry. In support of his contention, Shri Ranen Roy relied on a decision of the Supreme Court of India in *Associated Cement Companies Limited (Chibasa Cement Works, Jhinkpani) Vs. Their workmen*, 1960(1) L.L.J. 1. I do not think that this decision of the Supreme Court at all supports Shri Ranen Roy. This case is of the same company with which we are concerned here. In that case, S. K. Das J, speaking for the Court, at page 13, held that the limestone quarry at Rajanka and the Factory at Jhinkpani constituted one establishment within the meaning of Clause (iii) of Section 25E of the Act and were not separate establishments. Similar is the case here. The just mentioned decision of the Supreme Court, therefore, supports the workmen.

In this connection, on behalf of the workmen, reliance was placed on paras 2(a), 2(b) and 2(d) of the Standing Orders of the Company Exhibit W. 22. Para 2(a) defines a 'Worker' as follows:

"2(a). 'worker' means all work people male or female employed in the quarries or in occupations connected with the work of quarries whose names are borne in the Schedule 'A' Register under the Mines Act, 1952".

Para 2(b) defines 'Quarries' which "means the Rajanka Limestone Quarries, Jhinkpani."

Para 2(d) defines 'Agent' which means "the company's Agent for the quarries under the Mines Act and includes Acting Agent."

These Standing Orders are for the workers of Rajanka Limestone Quarries under the Associated Cement Companies Limited. This also supports that the limestone quarry and the cement factory constitute one establishment.

I would, therefore, reject the Second ground also for contending that the State Government is the 'Appropriate Government' within the meaning of Section 2(a)(i) of the Act in respect of the present dispute.

11. For the reasons given above, I hold that the 'appropriate Government' to refer the dispute was the Central Government, as contemplated by Section 2(a)(i) of the Act, and, as such, the reference made by the Central Government under section 10(1)(d) of the Act is perfectly valid.

MERIT:

12. On merit the only question is whether the termination of the services of 26 workmen concerned with effect from 24th February 1964 was justified. For deciding this question it is necessary to state briefly the material facts relied upon by both the parties. These facts are as below:

On 18th May 1963 the Manager of the Chaibasa Cement Works issued a notice Exhibit M. 4 inviting applications for few temporary posts of *mazdoors* for quarries and mentioned therein that only candidates who had worked with the company in the past with good records and those who had given land to the company need apply.

On 29th July, 1963.—Parkrai Deogam workman concerned, No. 11, was given a letter of appointment Exhibit W. 24 to the effect that the management was pleased to appoint him as a temporary *mazdoor* in connection with the temporary work for a period of three months from 23rd May, 1963, to 22nd August, 1963, at their Chaibasa Cement Works Rajanka Limestone Quarries on the terms and conditions mentioned therein. Two of the conditions mentioned therein are important and may be mentioned here as they have been specifically relied upon by both parties. Condition No. 1 was that the appointment was purely temporary and the appointee can be discharged at any time without notice or compensation or assigning any reason whether on completion of the work for which he was engaged or earlier and he will remain a temporary workman until and unless he was made permanent by order in writing by the company, whether he was working on the same temporary job on which he was engaged or some other job in the same department or some other department on the temporary or permanent work. Condition No. 4 was that the Rules of the company or decisions of Governmental Authorities or Awards of Tribunals or Agreements with the Union, which are or will be applicable to permanent employees will not be applicable to him by right but the company may in their absolute discretion apply any of them wholly or in part for any length of time to the employee concerned. It was conceded by both parties that all the other 25 workmen concerned were given letters of appointment on the same terms and conditions as mentioned in Exhibit W. 24.

I may mention here that I am referring only to those documents which have been relied upon by the parties although the workmen filed as many as 75 documents but they did not refer to or rely on more than 3 or 4 documents.

Exhibit M. 11.—gives the names of the 26 workmen concerned with the dates of their appointment as entered in B register and the number of days they worked as given in D register. From Exhibit M. 11 it will appear that none of these 26 workmen worked for 240 days. The services of these 24 workmen were terminated admittedly on 24th February, 1964.

Exhibit M. 7.—Mentions the names of 24 workers and the number of days for which they worked and their total earnings in limestone and total earnings on overburden work.

Exhibit M. 6.—is a graph to show that overburden work done upto a certain period in 1962-63 was more as compared with 1961-62 in order to show that a new quarry was to be started and, therefore, overburden was really, essentially done by the workmen concerned and limestone work was only incidental.

On behalf of the company reliance was placed on para 3 of the Standing Orders Exhibit W. 22 where a temporary worker has been defined in order to show that these 26 workmen concerned were engaged for work essentially of temporary nature and likely to be finished in a limited period and as such they were issued temporary tickets and entered in schedule B register as temporary workers.

13. Relying on the above facts, it was contended, on behalf of the company, that the services of the concerned workmen were terminated in terms of their employment on 24th February, 1964, and as such they were not entitled to any relief. It was

further contended, on behalf of the Company, that no doubt, according to the definition of 'retrenchment', as given in Section 2(oo) of the Act, "retrenchment means the termination by employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way disciplinary action," but, in the present case, it was not retrenchment as their services were terminated in terms of their employment, and, as such, retrenchment procedure was not applicable. In support of the contention that the termination of the services of the workmen concerned did not amount to retrenchment, reliance was placed on a decision of the Labour Appellate Tribunal in *Balkrishna Ganpat Vs. Ruston and Hornsby (India) Ltd., Bombay, 1956(I) L.L.J. 599* in which it was held that there was no obligation on the company to retain an apprentice for a particular period after the expiry of the contracted period and if the management intimated to the apprentice that his service would be no longer required after the expiry of the contracted period such action of the management could not be considered to amount to 'retrenchment', and, as such, he could not claim any retrenchment compensation under Section 25F of the Act.

In the alternative, it was contended that if it was retrenchment even then the workmen concerned were not entitled to any compensation under Section 25F of the Act because under Section 25F of the Act the condition precedent to being entitled to get retrenchment is that he must have been in continuous service for not less than one year which is not the position in the present case. One year of continuous service has been defined in Section 25B of the Act which provides that during the period of 12 calendar months a workman must have actually worked in an industry for not less than 240 days in order to complete one year's service in the industry and these conditions not being present in the instant case none of the workmen were entitled to retrenchment compensation. For these reasons it was argued the procedure for retrenchment provided for in Section 25G of the Act was not followed.

On behalf of the workmen also it was conceded that their case was not a case of retrenchment. The question of retrenchment, therefore, does not arise for decision.

14. The case of the workmen was that they should be considered to be *Permanent* workmen as defined in para 3(i) of the Standing Orders Exhibit W.22, because para 3(iii) which defines a *Temporary* worker had no application to them. It would be useful here to read Para 3(iii) of the Standing Orders Exhibit W.22, which admittedly apply here. Para 3(iii) reads thus:

"Para 3(iii).—A "Temporary" worker is one who is engaged for work essentially of a temporary nature and likely to be finished in a limited period and issued a temporary ticket and whose name has been entered in Schedule 'B' Register as Temporary worker."

Relying on the above definition, the contention of the workmen was that these workmen concerned were engaged for work which was not "*likely to be finished in a limited period*", which is one of the essentials of para 3(iii) of Exhibit W.22, and, therefore, cannot be considered as Temporary workers.

In order to support their contention that the work for which they were engaged was not "*likely to be finished in a limited period*", reliance was placed on Exhibits M. 7 and M. 9. Their contention was that the work, which they were doing, was of a permanent nature and not "*of a temporary nature*", as contemplated by Standing Order No. 3(iii) of Exhibit W.22, in that, these concerned workmen were engaged in raising of limestone as will appear from exhibit M. 7 and also of removal of overburden as will appear from Exhibit M. 9 and these two kinds of work cannot be said to be "*likely to be finished in a limited period*". To me also it appears that the stand taken by the workmen is correct. Admittedly these 26 workmen were engaged for raising of limestone as well as for removal of overburden. I cannot understand how then it can be said that the nature of this work was such that it was "*likely to be finished in a limited period*". From the nature of the work there seems to be no doubt that the work was of a continuous and permanent operation in the quarries and the raising of limestone and the removal of overburden for which work admittedly these concerned workmen were engaged temporarily in the beginning being in the nature of a continuous feature connected with the manufacturing process there was no likelihood of closure of the mineral operation of the raising of limestone and as such it must be held to be of a permanent nature. In this connection, reliance was placed, on behalf of the workmen, on a decision of the Supreme Court in *Jaswant Sugar Mills Ltd. Meerut Vs. Badri Prasad and others 1961(I) L.L.J. 649*, in which Das Gupta J, who spoke for the Court, held that to be a permanent workman within the meaning of the Standing Orders of that case, it is not necessary that the workman should be engaged in work throughout the year but what is necessary is that the work on which he is engaged is of a permanent

nature and lasts throughout the year. In that case the definition of a permanent workman in the Standing Orders was in these words:

"A permanent workman is one who is engaged in a permanent nature of work throughout the year and has completed his probationary period, if any."

In the instant case, a *permanent worker* has been defined in para 3(i) of the Standing Orders Exhibit W.22 as one whose name has been entered in Schedule A Register as a Permanent worker. Here admittedly the names of these workmen are not entered in Schedule A but in Schedule B as Temporary Workers. But the definition of a temporary worker, in para 3(iii) of the Standing Orders Exhibit W.22 read above, clearly envisages *inter alia* co-existence of two conditions, namely, (1) that the worker is engaged for work essentially of a temporary nature, and, (2) that such work is likely to be finished in a limited period.

In the instant case, I do not think that these conditions existed. Simply because the company called these workmen as temporary workers and treated them as such and issued appointments on that basis, in my opinion, will not be enough to destroy the rights of the workmen. The above show a *mala fide* intention of the management and nothing else. It is rather intriguing to find that the employment of these workmen, for instance, see Exhibits W2, W3, W7, W8, W10, W15, W16, W18, W19, W20 and W23, was admittedly being extended from time to time, but all on a sudden, obviously to prevent them completing one year's continuous service (See Section 25B of the Act) their employments are terminated overnight. This action of the company is highly condemnable and not at all praiseworthy and certainly not conducive to industrial peace and harmony.

In the present case, it was not contended, on behalf of the company, that the work on which these workmen were engaged, is not of a permanent nature and that it did not last throughout the year. This position is admitted.

For these reasons, it appears to me that these twenty-six workmen must be considered to be permanent workmen and not temporary workmen within the meaning of para 3(iii) of the Standing Orders Exhibit W.22.

15. There is another aspect of the matter also. It appears from Exhibit W.25 dated 28th September, 1964, a letter written by Manager of the company to the General Secretary of the Union, that with effect from 1st October, 1964, 135 temporary workers of the Quarry, were taken on permanent roll by the company. It was admitted by both parties that 135 of them were senior to the 26 workmen concerned, but two of them were appointed on the same day as these workmen were appointed. In reply, it was contended, on behalf of the management, relying on Exhibit M.5, that these two workmen, namely, Chambhu Hesa and Surja Gaur were given preference, and made permanent in terms of clause 7 of the Lease Exhibit M.8 and as such there was no question of violating the principle of 'Last Come First Go'. This contention appears to be correct.

Reference was also made to Exhibit W.72 which is a letter dated 1st November, 1962 from the Agent to the General Secretary of the Union, in which in para 2 it was said that the temporary mazdoors when they were engaged were clearly told that they will have to load stones into the wagons, whether they load the stones on head-load or in *Bhars*, and, therefore if the mazdoors are willing to load stones into the wagons in *Bhars*, the company have got no objection so long as they fulfil their duties for which they have been specially appointed. It was further said therein that these people were specially engaged for loading wagons in order to increase the output. This letter Exhibit W.72 also, therefore, shows that these concerned workmen could not have been engaged on such temporary work which was likely to be finished in a limited period.

It was argued, in reply, by the management, that Exhibit W.72 has no application to the workmen concerned because this letter was written in 1962, whereas these workmen were appointed in 1963, and in 1962 they were not in service then. That may be so, but Exhibit W.72 shows the nature of work which the so-called temporary mazdoors had to do.

It was then argued on behalf of the workmen, relying on Exhibit W.73, which is a letter from the Manager to the General Secretary of the Union, written on 15th March, 1963 relating to *transportation and Shifting of materials*, that the recommendations of the Wage Board could be applied only in respect of the job which is of a permanent nature, and, as such, recommendation of the Wage Board has no application so far as the workers involved in such capital jobs are concerned. It was argued, on behalf of the workmen concerned, that as a matter of fact these 26 workmen were getting wages according to the Wage Board recommendations and that also shows that they were treated as permanent workers by the company. I

think there is some force. In reply, however, it was pointed out, referring to Chapter XIV, at page 81, of the Wage Board, wherein summary of other recommendations is given by the Central Wage Board that in para 14.8 it had itself directed the same wages etc. to be paid to all and, therefore, the wages fixed by the Wage Board were paid. I do not think much can be made of this.

Reference was also made to Exhibit W. 26 in order to show that there was a Resolution on Industrial Truce on 3rd November, 1962, where under para II (v) it was agreed between the parties that all complaints pertaining to dismissal, discharge, victimisation and retrenchment of individual workmen, not settled mutually should be settled by arbitration, but it was unfortunately not so in the present case and the management has violated the terms of industrial truce. This is a question of moral obligation only.

Lastly, on behalf of the company reference was made to Exhibit W. 25, to which reference has already been made. It was argued that after appointment of 135 workmen of quarry on permanent basis from 1st October, 1964, how can there be vacancies for these temporary workmen where these can be made permanent and continued in service? This is a point which, in my opinion, goes very much against the company and very much in favour of the workmen. I cannot understand if there is work for 135 workmen why there should be no work for 26 workmen. The stand of the management that there was work for 135 men and now there is no work for these 26 workmen concerned clearly goes to show the guilty mind of the company and prove its *mala fide*.

16. For the reasons given above, termination of these 26 workmen concerned is declared to be *mala fide* and illegal and set aside.

17. In the result, the reference is answered by holding as below:

(a) That the management of Associated Cement Companies Limited, Jhinkpani, was not justified in terminating the services of the following 26 workmen of Rajanka Limestone quarry from the 24th February, 1964, and, therefore, their termination of services is set aside and they are reinstated to their previous jobs with full back wages and benefits:

S. No.	Name	Ticket No.
1.	Shri Kandey Hansda	T. 149.
2.	Shri Dasru Naik.	T. 150.
3.	Shri Abhiram Purty	T. 151.
4.	Shri Jagram	T. 152.
5.	Shri Turam Munda	T. 153
6.	Shri Mangal Singh	T. 154
7.	Shri Singrai Hessa	T. 155.
8.	Shri Nitu Hessa	T. 156
9.	Shri Bhaskoro Gowala	T. 157
10.	Shri Jagarnath	T. 158
11.	Shri Parkrai Deogam	T. 166
12.	Shri Mangru Khandait	T. 166
13.	Shri Nawru Balmuchu	T. 167
14.	Shri Udai Balmuchu	T. 168
15.	Shri Selai Balmuchi	T. 169
16.	Shri Pachai	T. 170
17.	Shri Suraj Kahndait	T. 171
18.	Shri Pandu Kahndait	T. 172
19.	Shri Dimbi Hessa	T. 173
20.	Shri Radha Krishna Hesda	T. 174
21.	Shri Nazir Nagi	T. 175
22.	Shri Kurpa Hesda	T. 176
23.	Shri Gulia Hesda	T. 178
24.	Shri Arjoon Dass	T. 179
25.	Shri Golaram	T. 180
26.	Shri Sanatan Das	T. 181

(b) These 26 workmen were wrongly designated as temporary workmen by the company in accordance with the conditions laid down in item 3(ii) of the Standing Orders of the Rajanka Limestone Quarry Exhibit W. 22 as it does not apply to these workmen, and, therefore, these 26 workmen are entitled to be treated as *permanent workers* and are declared as such.

18. This is the award which I make and submit to the Government of India, under Section 15 of the Act.

DHANBAD,

Dated the 2nd January, 1965.

Sd./- RAJ KISHORE PRASAD,
Presiding Officer

Central Govt. Industrial Tribunal,
Dhanbad.

[No. 22/22/64-LR. I.]

New Delhi, the 22nd February, 1965.

S.O. 698.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri L. P. Dave, Arbitrator, in the industrial dispute between the employers in relation to the Kathara Colliery of the National Coal Development Corporation Limited and their workmen, which was received by the Central Government on the 16th February, 1965.

BEFORE SHRI L. P. DAVE, ARBITRATOR, CALCUTTA.

REFERENCE No. ABN-2/1964

PARTIES:

Employers in relation to Kathara Colliery of National Coal Development Corporation Ltd.,

AND

Their workmen (Represented by Coal Workers' Union, P.O. Giridih, Dist. Hazaribagh).

PRESENT:

Shri L. P. Dave.—*Arbitrator.*

APPEARANCES:

On behalf of Employers.—Shri D. Narsingh, Advocate, Shri M. L. Gulhati, Group Personnel Officer.

On behalf of workmen.—Shri Chaturanan Mishra.

STATE: Bihar.

INDUSTRY: Coal Mines.

AWARD

An industrial dispute arose between the employers in relation to the Kathara colliery of the National Coal Development Corporation Ltd., and their workmen represented by the Coal Workers Union, Giridih, mainly on the question whether the N.C.D.C. was justified in awarding loading work to a contractor. The parties agreed to refer the said dispute to me for arbitration. They signed an agreement to this effect under sub-section (1) of Section 10A of the Industrial Disputes Act and set it to the Government of India, who published it under sub-section (3) of the above section by their order No. 8/123/64-LR.II dated 14th August, 1964.

2. In response to notices issued by me, both the parties filed their written statements. The matter was then fixed for hearing. At that time, both parties admitted certain facts and requested me to visit and inspect the colliery and to verify and ascertain different facts by making oral enquiries. They agreed that I need not make notes in writing and that I may act on the spot enquiries made by me. Accordingly I visited and inspected the colliery, saw different places, heard several persons and ascertained different facts. Both parties then stated that they did not want to lead any oral evidence. Arguments were thereafter heard and I now proceed to give my award in this case.

3. Most of the facts in the case are not in dispute. Originally the work of loading of coal in the Kathara colliery was being done by a contractor who used to employ his own labour for the same. In about September, 1963, the colliery abolished the contract system and started doing this work departmentally. It appears that they took over the workmen who were working under the contractor and engaged them as their direct employees. From about 18th June, 1964, however, the contract system was again introduced and the work of loading is being done thereafter by a contractor who employs his own workers for the same. The workers who had been engaged by the colliery as their direct employees have been discharged by the colliery; but the contractor has engaged them as his employees. In other words, these workers at present are not out of employment, but the workers' case is that the colliery was not justified in re-introducing the contract system and that the workmen should be continued as the direct employees of the colliery.

4. The Union mainly relies on the finding of a Court of Enquiry constituted by the Government to report among other things on the question whether the system of employment of labour through or by contractors and sub-contractors in the coal mining industry could be abolished without impairing productivity and if so, in which case of employment. While the proceedings were pending before the Court of Enquiry, the employers represented by their three main associations viz., Indian Mining Association, Indian Mining Federation and Indian Colliery Owners Association and the workers represented by their important labour organisations viz., Indian National Mine Workers' Federation, Koyala Mazdoor Panchayat, Colliery Mazdoor Congress, Hind Mazdoor Sabha and Indian Mine Workers Federation entered into a settlement. The National Coal Development Corporation Ltd., also subscribed to that agreement. Under this settlement, it was agreed that all processes directly connected with the raising and despatch of coal should be the direct responsibility of the principal employer and all workers engaged therein were to be employees of the principal employer except in the seven categories mentioned in para 2 of the agreement. The court of Enquiry accepted this agreement and held that the said agreement should be accepted for the time being and that contract labour should be abolished as early as possible in all categories except those specifically referred to in para 2 of the agreement.

5. The fourth category which was to be excluded under this agreement was "Coal loading and unloading, provided that the principal employer shall engage a nucleus of wagon and truck loaders to whom regular work can be guaranteed; the number of such nucleus to be reviewed quarterly". This would mean that under the above agreement the work of loading and unloading could be given to contractors; but the employers were required to keep a nucleus of loaders to whom regular work could be guaranteed.

6. Shri Chaturanan Misra, who appeared on behalf of the workmen, firstly urged that having once abolished the contract system in loading and unloading, the employers have no right to re-start that system. I do not think that any distinction can be made between starting a system for the first time or continuing a system or restarting a system. Normally contract system has got to be abolished and the employer should engage direct employees for all work relating to processes directly connected with the raising and despatch of coal. It makes no difference whether the system is introduced for the first time or whether the system, which was already in vogue, had been abolished and was proposed to be started again. The important question would be whether the system is justified or not irrespective of the fact whether it had been abolished or not earlier.

7. The employers' case is that formerly the Indian Railways purchased large quantities of coal from this colliery and a number of wagons was supplied regularly every day, and they required a number of loaders for this. So also, the Bokaro Thermal Power Station of the Damodar Valley Corporation used to purchase large quantities of coal and this coal was sent in trucks, and for this also, the colliery required loaders. Of late, however, the Railways have considerably reduced their orders, and the supply of wagons was reduced. It is also not regular. The Bokaro Power Station is also now not purchasing coal from this colliery. They have thus very little work for loaders, and that too, not regular. They now require loaders only occasionally; hence they cannot maintain a nucleus of loaders to whom work could be given regularly. Hence, they have given the work to a contractor.

8. In support of their contentions, the employers have produced several statements. They go to show that formerly the railways used to purchase large quantities of coal from this colliery and a large number of railway wagons had been allotted every day. In the year 1961, the supply of wagons to this colliery was almost regular. In no month were less than 1,500 wagons supplied to the

colliery; actually in one month the supply rose to as much as 2457. In 1962 also, the supply of wagons was quite satisfactory. In 1963 though the supply was satisfactory during the early months, it was not so during the later months. In this year, the supply fell to 1286 in the month of October. I also find that the supply was not regular. On several days, there was no supply of wagons at all. The position however became very bad in 1964. In the first four months, supply of wagons was 1444, 1101, 1491 and 1452 respectively, with no supply on several days. From May to October, the supply was 651, 738, 286, 502, 219 and 419 respectively. The number of days on which wagons were supplied was 8 in May, 8 in June, 4 in July, 7 or 8 in August, 3 in September and 7 or 8 in October.

9. There is thus great force in the contention of the employers that in view of this position they could not keep nucleus of wagon loaders to whom regular work could be guaranteed. The supply was erratic. The colliery required a number of loaders on the days on which the wagons were supplied; but they did not require any loaders on more than 20 days in a month. If, in the circumstances, the employers thought it fit to get the work done by or through a contractor, I cannot say that it was not justified. To keep a large number of persons idle for a number of days in a month only to see that they get work for 7 or 8 days would certainly be uneconomic and not desirable.

10. The employers have also produced statements showing supply of coal by road to the Bokaro Power Thermal Station day by day and month by month. They show not only that this supply of coal is not regular but that it is now almost stopped. Hence for this purpose also they do not require any nucleus of loaders to whom work can be given regularly.

11. It has been alleged in the written statement of the union that "corruption has pervaded most of the State Undertakings, as a result of which the coal consuming State undertakings like D.V.C. and the Railways are behaving in a way detrimental to the N.C.D.C." The reply of the employers is that they are not aware of corrupt practices in the public sector undertakings. They have however admitted that the demand of the Damodar Valley Corporation and the Railways from Kathara colliery has substantially gone down and the supply of wagons to the colliery had become very erratic.

12. On my visit to the colliery, I found that the Bokaro Thermal Power Station was quite close to Kathara colliery. This power station belongs to the Damodar Valley Corporation, which is a Government of India undertaking. The Kathara colliery belongs to National Coal Development Corporation Ltd. which is also a Government of India undertaking. The thermal power station requires large quantities of coal and one would expect that they would take coal from the nearest colliery as it would save them the cost of transport. The Damodar Valley Corporation is not a party before me and I do not know the reasons which induced them to stop taking coal directly from the Kathara colliery. I would therefore not be justified in expressing any opinion on this point. But I do feel that appropriate authorities should make an enquiry in the matter.

13. In this connection, I may mention that though the thermal power station does not take coal directly from Kathara colliery, it takes coal produced by Kathara colliery. It gives orders to contractors who purchase some coal from the Kathara colliery and supply it to the thermal power station. In other words, the Kathara coal does not appear to be of a quality unacceptable to the thermal power station.

14. I may also refer here to some correspondence between the officers of the Damodar Valley Corporation and the National Coal Development Corporation. It appears therefrom that the Damodar Valley Corporation officers were not satisfied with the quality of coal supplied to them. They have alleged that the quantity supplied to them contained a large quantity of stone and shelly matters; that ash content was high; and that no proper picking or screening was done before the coal was supplied to them.

15. Similarly I find that the Indian Railways were formerly placing orders of coal from Kathara colliery but now they have considerably reduced their orders. Here also I find correspondence showing complaints from the railways that coal was not properly screened and that the loading was not also satisfactory.

16. I may repeat that I am not in a position to express any opinion in this respect. But I do feel that an enquiry in the matter is necessary. The fault may be improper supervision at the Kathara colliery or the fault may be at the other end or the fault may be at both ends. Normally, a public sector undertaking should take coal from the nearest colliery—more so when it is also a public sector undertaking—unless, of course, there are strong grounds to adopt a contrary course. An enquiry should enable the authorities to find out where the fault lies, so that it could be set right.

17. Whatever the reasons may be, the fact remains that the colliery has now very little loading work. Even if this is due to inefficiency or carelessness, the fact remains that they have no regular work for loaders and they cannot maintain a nucleus of loaders to whom regular work can be given.

18. At the time of arguments, Shri Mishra on behalf of the Union contended that there was now a change in the circumstances; that the colliery had received 17 rakes in January 1965 and 20 in February; they could therefore maintain a nucleus of loaders and hence there was no necessity of giving work to the contractor. On the other hand, I was told by Shri Narsingh on behalf of the employers that they had received only 10 rakes in January (though they had been told that they would receive 14 rakes) and that in February they have been told that they would get 9 rakes; but they have so far received only one.

19. Temporary improvement would not justify a finding that the management's action is not proper. What has got to be looked into is the circumstances prevailing at the time when the management took the action, which gave rise to this dispute. At that time there could be no doubt that the management was justified in discharging their regular employees and getting the work done by a contractor if and when necessary. Again the alleged improvement may be only temporary and there may be a set back after some time. If there is a permanent improvement, the matter may require to be reviewed. In this connection, however, it may be mentioned that the colliery is having a washery very soon and when the washery goes into operation, no loaders would be required as the coal would be mechanically loaded.

20. It was then argued on behalf of the workmen that the contractor has sufficient work for these workmen and if he could employ them without keeping them idle for any day, there is no reason why the colliery would not be able to do so. I however find that the contractor is doing not only the loading work of Kathara colliery but he is doing other work also. For instance, he is doing work of loading coal which he has agreed to supply to the thermal power house. This work is not of Kathara colliery. When the workmen do this work, they could not be said to be doing work of the colliery. The contractor is also doing the work of manufacturing of coke etc. Some of his workers also do the work of screening of coal etc. Hence he can keep his labour engaged in different kinds of work, no one would be idle even if there is no work of loading in the colliery.

21. On the whole, I think that the colliery has not enough work which requires a nucleus of loaders to whom work could be given regularly, and it was therefore justified in having the work done through the contractor. Incidentally I may mention here that the main reason for the abolition of contract system is that the contractors do not pay proper wages to their workers and that they resort to malpractices. In the present case, however, no allegation of any sort was made against the contractor.

22. In the result, I hold that the N.C.D.C. was justified in awarding the loading work to a contractor. That being so, the workmen concerned are not entitled to any relief.

I pass my Award accordingly.

The 12th February 1965.

Sd./- L. P. DAVE,

Arbitrator.

[No. 8/123/64-LR. II.]

ORDER

New Delhi, the 22nd February, 1965

S.O. 699.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Kendwadh Colliery of

Messrs Hurriladih Coal Company Limited, Post Office Bhaga, District Dhanbad, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of the Kendwadih Colliery of Messrs Hurriladih Coal Company Limited in imposing idleness on Sarvashri Charan Singh and Rewal Mahato, C. C. Machine Drivers, with effect from the 1st June, 1964, was justified? If not, to what relief are the workmen entitled?

[No. 2/132/64-LR-II.]

H. C. MANGHANI, Under Secy.

CORRIGENDUM

New Delhi, the 16th February 1965

S.O. 700.—In the Notification of the Government of India in the Ministry of Labour and Employment No. S.O. 39, dated the 18th December, 1964, published at pages 20 to 43 in Part II—Section 3—Sub-section (ii) of the Gazette of India, dated the 2nd January, 1965, for “and be placed on a scale of 60—130. In any case since they are promoted from the patternmakers,” occurring in lines 11 and 12 of paragraph 33 at page 38, read “and outdoor flotilla, 9 fitters (I.C.E.) from the Motor Shop, 6 Carpenters from the Pattern-makers”.

[No. 28/34/63/LR-IV.]

O. P. TALWAR, Under Secy.

MINISTRY OF PETROLEUM & CHEMICALS

New Delhi, the 15th February 1965

S.O. 701.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Undera near Baroda in Gujarat State to Baroda City in Gujarat State, pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the lands specified in the Schedule annexed hereto.

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said lands may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority at L.M.P. Building, 4th Floor, Sayaji Ganj, Baroda in the office of the Gujarat Pipelines Project, Oil and Natural Gas Commission. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

STATE—GUJARAT

DISTRICT—BARODA

TALUKA—BARODA

Village	Survey No.	Acre	Guntha	Sq. Yds.
Undera	319	0	16	85
"	Road	0	4	49
"	317	0	17	108
"	316	0	2	73
"	314	0	19	101
"	312	0	5	45
"	Road	0	21	69
"	Road	0	1	92
Gouva	Road	0	1	92
"	562	0	2	78
"	564/A	0	2	108
"	563	0	12	28
"	559/I	0	4	16
"	564/P	1	1	106
"	544	0	16	114
"	543	0	12	48
"	542	0	11	19
"	Road	0	10	00
"	436	0	8	72
"	435	0	5	35
"	434/I+2	0	8	112
"	417	0	13	107
"	416	0	12	48
"	415/P	0	4	103
"	400	0	3	77
"	401	0	9	19
"	415/P	0	6	24
"	404	0	4	103
"	405	0	12	15
"	406	0	12	81
"	412	0	8	98
"	414	0	11	109
"	Road	0	9	64
"	705	0	17	23
"	706	0	10	70
"	707	0	18	62
"	709/2	0	9	84
"	Road	0	2	45
"	718	0	15	00
"	710	0	6	74
"	716	0	23	71
"	Road	0	2	91
"	713	0	21	19
"	1180	1	0	27

New Delhi, the 20th February 1965

S.O. 702.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Kanpur in Uttar Pradesh State pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

2. Now therefore, in exercise of the powers conferred by Sub-Section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the Competent Authority at 7/166, Swarupnagar, Kanpur. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State—Uttar Pradesh

Tahsil—Meja.

District—Allahabad.

Village	Survey No.	Extent	Village	Survey No.	Extent
		B B & B			B B B
1. Baksandi . . .	29	0 1 5	4. Kukri—contd.	544	0 1 0
	61	0 0 10		545	0 2 0
	62	0 2 5		547	0 1 18
	63	0 1 10	5. Chak Diha . . .	1	0 0 10
	70	0 0 15			
	272	0 11 15	6. Sarwanpur . . .	49	0 1 0
	273/1	0 2 10		51/2	0 2 0
	275	0 5 0		52	0 0 5
	277	0 0 10		53/1	0 0 5
	281	0 1 0	7. Manpur . . .	109/1	0 1 0
	308	0 1 10		109/2	0 1 0
	311/2	0 6 0	8. Nahwai . . .	62/2	0 1 0
	313	0 2 18		78/2	0 0 10
	267/2	0 4 0		91	0 1 0
	309/2	0 1 10		98	0 0 5
	310/2	0 4 10		140	0 0 5
2. Hempur . . .	44/1	0 1 0		141	0 0 5
	45/1	0 5 0		142	0 0 8
	46	0 1 0		143	0 0 10
	61/2	0 0 15			
3. Bela Ahiran . . .	24	0 0 10	9. Tikri . . .	142/2	0 1 10
	27/2	0 1 0		597	0 1 0
	28/2	0 7 10		599	0 1 0
	30	0 3 2	10. Umapur Kalan . . .	118	0 1 10
	36/2	0 4 10		124/2	0 1 0
	44/3	0 7 10		469	0 2 0
	45/2	0 4 9		484	0 4 10
	50/1	0 0 15		487	0 0 10
	50/4	0 2 7		498	0 1 0
4. Kukri . . .	384	0 0 10	11. Garetha . . .	169	0 7 0
	386	0 0 15		219/1	0 2 5
	476	0 0 5		220	0 3 0
	481	0 0 5		225	0 0 10
	483	0 2 5		232	0 4 0
	484	0 1 0			
	517	0 1 18			

Village	Survey No.	Extent			Village	Survey No.	Extent		
		B	B	B					
11. Garetha— <i>contd.</i>	233	0	0	14	13. Urwa . . .	53	0	1	0
	234	0	0	10		136/1	0	2	0
	258/2	0	1	0		136/2	0	3	0
	265	0	3	0		137	0	9	18
	266/2	0	0	15		147	0	2	10
	266/3	0	0	15		169	0	2	0
	267/3	0	3	10		170	0	1	10
						171	0	4	0
12. Chauktha Lachhan	172/1	0	1	0		469	0	4	0
	173	0	0	15		509/1	0	0	10
	190	0	1	10					
	211	0	2	15	14. Lehndi . . .	533	0	1	0
	212/1	0	2	0		534	0	1	0
	225	0	1	0		542	0	1	0
	231	0	2	0					
	241	0	0	5	15. Bisahjan Khurd .	297/1	0	2	0
	242	0	3	0					
	299	0	2	15	16. Bisahjan Kalan .	135/2	0	1	15
	300/1	0	1	0		140	0	0	10
	300/2	0	2	0		143	0	1	15
	301	0	0	5		146/5	0	0	8
	306	0	2	10		147	0	2	0
	307	0	3	0		152	0	3	0
	310	0	1	0					
	311	0	3	0	17. Kathauli	839	0	8	0
	316	0	1	10		845	0	1	0
	396	0	1	10		1013	0	6	15

[No. 31/50/63-ONG-1.]

S.O. 703.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Kanpur in Uttar Pradesh State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

2. Now therefore, in exercise of the powers conferred by Sub-Section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the Competent Authority at 7/166, Swarupnagar, Kanpur. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

STATE: UTTAR PRADESH

TAHSIL: KARCHHANA

DISTRICT: ALLAHABAD

Village	Survey No.	Extent			Village	Survey No.	Extent		
		B	B	B					
1. Indalpur	85	0	1	0	2. Chak Muin Uddinpur	52/1	0	4	15
	86	0	0	15		52/2	0	0	15
	88	0	1	0	3. Chak Ata Ulla .	52	0	6	5
	89	0	0	10					
	92	0	2	10	4. Chak Qazi . . .	3	0	3	8
	93	0	2	0		5	0	8	15

Village	Survey No.	Extent	Village	Survey No.	Extent
4. Chak Qazi— <i>contd.</i>	18 21 25	0 7 8 0 2 15 0 1 2	9. Mahuwari Taluqe Lawain— <i>contd.</i>	335/1 336/1 336/2	0 2 0 0 2 5 0 3 10
5. Chaka	21/2M 25/2 29 31 32 34 219/2 273/2 278 282 309 317 343 344 346 347/1 350 357 359 521 522 523/1 692	0 3 0 0 8 0 0 5 10 0 1 5 0 3 0 0 0 5 0 1 15 0 0 15 0 0 10 0 3 10 0 4 0 0 1 10 0 3 10 0 2 5 0 4 5 0 0 6 0 1 0 0 4 0 0 1 10 0 1 10 0 4 5 0 0 10 0 0 10	10. Chak Mohammad Waris	71/1 71/2 90 94 102/1, 2 102/3 108 109 113	0 0 5 0 2 10 0 2 5 0 1 10 0 3 5 0 0 5 0 2 15 0 3 10
6. Chhionki	99/1 100	0 7 10 0 5 10	11. Beuhara	80/2 82 91 95/1 95/2 96 100 103/3 272 275/1,2	0 1 15 0 2 0 0 0 5 0 1 0 0 1 0 0 2 0 0 0 15 0 1 0 0 1 10 0 4 0
7. Dadri Taluqe Naini Dadri	264/5 264/6 264/18 264/20 264/34	0 0 5 0 1 15 0 3 10 0 4 10 0 0 5	12. Hardua	31 34/1 34/2 40 60 61	0 0 3 0 1 0 0 2 0 0 0 12 0 3 15 0 2 8
8. Bharohan	86/1 86/4 86/5	0 2 0 0 1 5 0 4 0	13. Mugari	2855 2860 2861 2862 2864/2 2865 2866 2867 2940 2959 2960 2962/2 2964/1	0 0 10 0 0 5 0 1 10 0 2 0 0 2 0 0 1 10 0 1 10 0 1 10 0 2 0 0 4 0 0 2 0 0 2 0 0 0 10
9. Mahuwari Taluqe Lawain	144 146 164 165 166/1 166/2 167 169/1 263 265 267/1 268 270 271 272/1 272/2 274 275 279 280 321 322 325	0 0 10 0 1 0 0 2 10 0 2 0 0 1 10 0 3 0 0 1 0 0 3 10 0 2 10 0 9 0 0 2 0 0 1 10 0 9 5 0 9 10 0 2 0 0 0 10 0 4 10 0 6 0 0 1 10 0 8 5 0 7 15 0 0 5 0 5 15	14. Basaria	265/1 266/3 266/4 279 287/2 325 365/1	0 1 0 0 0 10 0 0 10 0 1 10 0 1 0 0 1 10 0 1 5
			15. Bharha	389	0 2 0
			16. Gandhyan	575 627 668/3 668/14 668/29 668/30, 31 682	0 2 0 0 1 0 0 1 0 0 0 5 0 1 0 0 2 0 0 1 0

Village	Survey No.	Extent.	Village	Survey No.	Extent
		B B B			
16. Gandhyan—contd.	683	0 1 0	17. Ghore Dech—contd.	557	0 0 5
	684/1	0 1 5		558	0 2 0
	700	0 0 10			
	710/2	0 5 0	18. Bastar	272	0 4 0
	716	0 0 5		274	0 0 15
	719	0 3 0		275	0 0 15
	722	0 2 0		810	0 0 5
	726	0 3 0		817	0 1 0
	729/6	0 1 10		818	0 0 10
	731	0 1 10			
17. Ghore Dech	538	0 2 0	19. Kachri	160/3	0 0 15
	540	0 4 0		192	0 1 0
	550	0 0 15		202/1	0 7 0
	554	0 2 5		204	0 1 0
	556	0 0 5		230	0 0 15
				231/2	0 0 10

[No. 31/50/63-ONG-2.]

S.O. 704.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Kanpur in Uttar Pradesh State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

2. Now therefore, in exercise of the powers conferred by Sub-Section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the Competent Authority at 7/166, Swarupnagar, Kanpur. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

STATE : UTTAR PRADESH

TAHSIL : CHAIL

DISTRICT : ALLAHABAD.

Village	Survey No.	Extent	Village	Survey No.	Extent
		B B B			B B B
1. Ashrafpur Taluqe	661M	0 1 0	2. Malak Nagar	58B	0 2 10
Asadullapur	710	0 0 10		61	0 1 10
	714M	0 0 10		62	0 2 15
	714M	0 4 5		66	0 9 10
	718	0 1 0		69	0 6 10
	733/1	0 3 0	3. Amilokipur	22	0 1 0
	1370	0 0 10		26	0 4 5
	1371	0 0 10		36	0 1 9
	1449	0 2 5		37	0 4 10
	1450	0 0 10		38	0 1 10
	1451	0 2 10		65	0 2 0
	1457/1	0 1 10		66	0 1 0
	1460	0 0 10		76A	0 2 0
	1462	0 4 0		206	0 9 10
	1470	0 6 10		214	0 1 0
	1471	0 5 0		217	0 1 0
	1480	0 0 15		225	0 1 15
				297	0 3 0

Village	Survey No.	Extent	Village	Survey No.	Extent
4. Mahmoodpur	120/2M 121M 123M 134M 137M 149M 150M 152M 435 436 466 467	0 3 0 0 1 15 0 0 10 0 0 10 0 0 10 0 0 5 0 1 5 0 1 10 0 1 0 0 2 0 0 1 15 0 0 5	8. Kasari Masari-contd.	1383 1721 1724 1750 1751 1753	0 0 10 0 3 0 0 5 5 0 2 10 0 2 0 0 1 10
5. Muhiuddinpur	195	0 2 10	9. Bajupur	57 58 60 62 63 64 65 66 72 73 74	0 0 5 0 2 10 0 0 15 0 2 0 0 0 5 0 1 0 0 2 5 0 0 15 0 1 5 0 1 0 0 1 0
6. Mubarakpur Kutwa	252M 256B 257A 287M	0 5 15 0 6 10 0 4 0 1 1 15	10. Chak Bajupur	34 35 36 37 38 45	0 2 0 0 2 0 0 0 15 0 7 10 0 7 15 0 5 10
7. Rajruppur	203M 210 212 213 214 215 216 219 220 227	0 14 10 0 6 5 0 3 0 0 3 10 0 7 0 0 3 10 0 0 5 0 2 10 0 8 10 0 10 10	11. Karaili	61 62 63 64 73 147 149 150 151 275 284 296 297 301 302 304 306	0 3 15 0 2 0 0 1 10 0 0 5 0 1 10 0 3 0 0 0 15 0 1 15 0 4 0 0 0 15 0 3 10 0 1 5 0 1 10 0 2 5 0 3 12 0 2 0 0 1 5
8. Kasari Masari	58 60 63 68 69 70 1159 1160 1198 1199 1276 1338 1355/1 1360 1381	0 4 10 0 3 0 0 6 5 0 2 0 0 1 15 0 0 15 0 1 10 0 3 0 0 5 15 0 3 0 0 3 10 0 1 0 0 0 10 0 0 5 0 3 0	12. Sadiyapur	171M	0 1 0
			13. Mirapur	51/1M	0 2 10

[No. 31/50/63-ONG-3.]

S.O. 705.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto;

2. Now, therefore, in exercise of the powers conferred by Sub-Section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the Competent Authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State: WEST BENGAL

Dist. HOOGHLY

Tehsil/Thana: HARIPAL

Village	Survey No. (Plot No.)	Extent (Area)	Village	Survey No. (Plot No.)	Extent (Area)
BALIA, J.L.4.	165	·16	BALIA, J.L.4—contd.	290	·07
	166	·01		291	·10
	170	·08		294	·14
	171	·10		295	·05
	175	·12		309	·02
	176	·10		315	·03
	177	·04		394	·01
	179	·06		397	·02
	181	·10		398	·18
	182	·10		399	·14
	183	·12		405	·16
	279	·08		590	·08
	280	·12		591	·14
	281	·16		593	·06
	282	·02		641	·01
	283	·01		900	·04
	289	·02			

[No. 31/33/63-ONG-i.]

S.O. 706.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto;

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the Competent Authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

ADDENDUM

SCHEDULE

State: WEST BENGAL

Dist. MIDNAPORE

Tehsil/Thana:

DASPUR

Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot Nos.)	Extent (Area)
Jot Ghanshyam, J.L.	240 2628	·005	Jot Ghanshyam, J.L.	2652	·12
	2629	·02	240—contd.	2667	·42
	2630	·03		2681	·17
	2631	·01		2682	·15
	2639	·04		2683	·14
	2644	·01		2684	·06

Village	Survey Nos. Extent (Plot Nos.) (Area)	Village	Survey Nos. Extent (Plot. Nos.) (Area)
Jot Ghanshyam, J.L.240	2685 .03	Kultikri, J.L.241— <i>cond.</i>	235 .18
— <i>cond.</i>	2717 .06		236 .005
	2718 .06		237 .12
	2719 .05		238 .05
	2722 .12		239 .32
	2815 .03		275 .03
	2822 .03		830 .28
	5498 .07		837 .15
	5586 .26		847 .18
	5587 .05		848 .10
	5588 .03		849 .08
	5598 .02		850 .10
	5599 .03		853 .08
	5604 .03		855 .08
	5605 .04		856 .25
	5606 .05		858 .22
	5607 .02		859 .10
	5608 .03		862 .02
	5609 .04		863 .10
	5610 .01		864 .12
	5633 .22		865 .08
	5634 .22		866 .12
	5636 .18		867 .06
	5639 .22		1002 .28
	5640 .03		1005 .02
	5641 .005		1424 .25
	5648 .005		1427 .16
	5649 .02		1451 .10
	5651 .10		1452 .08
	5652 .04		1453 .08
	5653 .04		1454 .03
	5654 .03		1456 .14
	5655 .04		1459 .03
	5656 .02		1460 .04
	5657 .03		1461 .04
	5658 .02		1464 .03
	5659 .005		1465 .06
	5660 .03		1466 .01
	5690 .05		1796 .05
	5691 .04		1869 .04
Kultikri, J.L.241	82 .10		1874 .14
	83 .05		1875 .05
	87 .16		1876 .02
	88 .06		1877 .15
	92 .06		1936 .14
	93 .04		1937 .10
	172 .005		1940 .10
	232 .03		1943 .18
	233 .10		1949 .10
	234 .06		1950 .01

[No. 31/33/63-ONG-ii.]

P. P. GUPTA, Under Secy.